BOSTON PUBLIC LIBRARY
3 9999 06307 928 7

Boston Public Library

TRIAL

OF

THE MAJOR WAR CRIMINALS

BEFORE

THE INTERNATIONAL MILITARY TRIBUNAL

NUREMBERG

14 NOVEMBER 1945 — 1 OCTOBER 1946

FROM
DOCUMENTS EXPEDITING PROJECT
TO
BOSTON PUBLIC LIBRARY
GOVERNMENT DOCUMENTS DEPARTMENT
AUG 16 1972

PUBLISHED AT NUREMBERG, GERMANY

1947

This volume is published in accordance with the direction of the International Military Tribunal by the Secretariat of the Tribunal, under the jurisdiction of the Allied Control Authority for Germany.

D804
.G42
I55

Vol. 6

VOLUME VI

OFFICIAL TEXT

IN THE

ENGLISH LANGUAGE

PROCEEDINGS

22 January 1946 — 4 February 1946

CONTENTS

Fortieth Day, Tuesday, 22 January 1946,
Morning Session 1
Afternoon Session 26

Forty-first Day, Wednesday, 23 January 1946,
Morning Session 53
Afternoon Session 84

Forty-second Day, Thursday, 24 January 1946,
Morning Session 111
Afternoon Session 134

Forty-third Day, Friday, 25 January 1946,
Morning Session 158
Afternoon Session 177

Forty-fourth Day, Monday, 28 January 1946,
Morning Session 203
Afternoon Session 236

Forty-fifth Day, Tuesday, 29 January 1946,
Morning Session 263
Afternoon Session 295

Forty-sixth Day, Wednesday, 30 January 1946,
Morning Session 329
Afternoon Session 344

Forty-seventh Day, Thursday, 31 January 1946,
Morning Session 369
Afternoon Session 393

Forty-eighth Day, Friday, 1 February 1946,
Morning Session 418
Afternoon Session 447

Forty-ninth Day, Saturday, 2 February 1946,
Morning Session 476

Fiftieth Day, Monday, 4 February 1946,
Morning Session 505
Afternoon Session 534

FORTIETH DAY

Tuesday, 22 January 1946

Morning Session

M. HENRY DELPECH (Assistant Prosecutor for the French Republic): Mr. President, Your Honors, I had the honor yesterday of beginning to explain before the Tribunal the methods of economic spoliation of Belgium by the Germans in the course of their occupation of the country.

Coming back to what was said in the course of the general considerations on economic pillage and on the behavior of the Germans in Norway and Denmark and in Holland, I have been able to show that in all places the determination to economic domination of National Socialism had manifested itself. The methods were the same everywhere, at least in their broad outlines. Therefore in immediate response to the wish expressed yesterday by the Tribunal and to fulfill the mission entrusted to the French Prosecution by the Belgian Government to plead its case before your high jurisdiction, I shall confine myself to the main outlines of the development, and I shall take the liberty of referring to the details of the German seizure of Belgian production, to the text of the report submitted to the Tribunal, and to the numerous documents which are quoted in our document book.

I have had the honor of calling your attention to the existence of the black market in Belgium, its organization by the occupation troops, and their final decision to suppress this black market. One may, with respect to this, conclude, as has already been indicated in the course of the general observations, that in spite of their claims it was not in order to avoid inflation in Belgium that the German authorities led a campaign against the black market.

The day the Germans decided to suppress the black market, they loudly proclaimed their anxiety to spare the Belgian economy and the Belgian population the very serious consequences of the threatening inflation. In reality, the German authorities intervened against the black market in order to prevent its ever-growing extension from reaching the point where it would absorb all the available merchandise and completely strangle the official market. In a word, the survival of the official market with its lower prices was finally much more profitable for the army of occupation.

I now come, gentlemen, to Page 46 of my presentation, to the third Chapter—purchases which were regular in appearance, which had only one aim, namely the subjugation of Belgian productive power.

Carrying out their program of domination of the countries of Western Europe as it had been established since before 1939, the Germans, from the moment they entered Belgium in May 1940, took all the measures which seemed to them appropriate to assure the subjugation of Belgian production.

No sector of Belgian economy was to be spared. If the pillage seems more noticeable in the economic sphere, that is only because of the very marked industrial character of Belgian economy. Agriculture and transport were not to escape the German hold, and I propose to discuss first the levies in kind in industry.

Belgian industry was the first to be attacked. Thus, the military commander in Belgium, in agreement with the various offices of the Reich for raw materials and with the Office of the Four Year Plan and the Ministry of Economics, drew up a program the purpose of which was to convert almost the whole of Belgian production to the bellicose ends of the Reich. Already on the 13th of September 1940 he was able to make known to the higher authorities a series of plans for iron, coal, textiles, and copper. I submit Exhibit Number RF-162 (Document Number ECH-2) in support of this statement.

Also a report by Lieutenant Colonel, Dr. Hedler, entitled "Change in Economic Direction," states that from 14 September 1940 the Army Ordnance Branch sent to its subordinate formations the following instructions, to be found in the document book under Exhibit Number RF-163 (Document Number ECH-84). I read the last paragraph of Page 41 of the German text:

> "I attach the greatest importance to the proposition that the factories in the occupied western territories, Holland, Belgium, and France, be utilized as much as possible to ease the strain on the German armament production and to increase the war potential. Enterprises located in Denmark are also to be employed to an increasing extent for subcontracts. In doing so the operational directives of the regulation of the Reich Marshal as well as the regulations concerning the economy of raw materials in the occupied territories are to be strictly observed."

All these arrangements quickly enabled the Germans to control and to direct Belgium's whole production and distribution for the German war effort.

The decree of 27 May 1940, VOBEL Number 2, submitted as Document Number RF-164, established commodity control offices whose task was—and I quote from the third paragraph:

"... to issue, in compliance with Army Group directives, general regulations or individual orders to enterprises which are producing, dealing with, or using controlled commodities, in order to regulate production and ensure just distribution and rational utilization while keeping to the place of work, as far as possible."

Article 4 of the same text indicated in detail the powers of these commodity control offices, and in particular they were given the right:

"To force enterprises to sell their products to specified purchasers; to forbid or require the utilization of certain raw materials; to subject to their approval every sale or purchase of commodities."

To conceal more effectively their real objective, the Germans gave these commodity control offices independence and the status of a corporation. Thus, there were set up 11 commodity control offices which embraced the whole economy except coal, the direction of which was left under the Belgian Office of Coal. Exhibit Number RF-165 (Document Number ECH-3), gives proof of this.

The execution of the regulations was ensured by a series of texts promulgated by the Belgian authorities in Brussels. They issued in particular a decree dated 3 September 1940, by virtue of which Belgian organizations took over again the offices which the Germans gave up.

These offices were to experience various vicissitudes. Although originating from the Belgian Ministry of Economics, they were closely controlled by the German military command. In this way, the seizure of Belgian production was completed by the appointment of "Commissioners of Enterprises," under the ordinance of 29 April 1941, submitted as Document Number RF-166. Article 2 of this text defines the powers of the commissioners:

"The duty of the Commissioner is to set or keep in motion the enterprise under his charge, to ensure the systematic fulfillment of orders, and to take all measures which increase the output."

The decline of the commodity control offices began with an ordinance dated 6 August 1942, establishing the principle providing for the prohibition of manufacturing certain products or for ordering the use of certain raw materials. This ordinance is to be found in the document book under Document Number RF-167. Supervision of the commodity control offices was soon organized by the

appointment to each of them of a German Commissioner, selected by the competent Reichsstelle.

From the last months of 1943 on, the "Rüstungsobmann" Office of the Armament and War Production Ministry (Speer), acquired the habit of passing its orders direct, without having recourse to the channel of the commodity control offices.

Even before this date measures had been taken to prevent any initiative that was not in accord with the German war aims. Further and even before the above ordinance of 6 August 1942, the ordinance of 30 March 1942 should be mentioned, which made the establishment or extension of commercial enterprises subject to previous authorization by the military commissioner.

In the report of the military administration in Belgium that has already been cited, the chief of the administrative staff, Reeder, specifies in Exhibit Number RF-169 (Document Number ECH-335) that for the period of January to March 1943 alone, out of 2,000 iron works, 400 were closed down for working irrationally or being useless to the war aims. The closing of these factories seems to have been caused less by the concern for a rational production than by the cunning desire to obtain cheaply valuable tools and machines.

In this connection, it is appropriate to point to the establishment of a Machine Pool Office. The above quoted report of the military administration in Belgium, in the 11th section, Pages 56 and following, is particularly significant in this respect. Here is an extract from the German text, the last lines of the last paragraph of Page 56, in the French translation, the last lines . . .

THE PRESIDENT (Lord Justice Sir Geoffrey Lawrence): That passage you read about the Defendant Raeder, was that from Document 169 or 170?

M. DELPECH: Mr. President, I spoke yesterday of the chief of the administration section, Reeder. He was section chief in Brussels. He has no connection with the defendant here.

THE PRESIDENT: I see, very well.

M. DELPECH: Exhibit Number RF-171 (Document Number ECH-10), second paragraph of the French text. The paragraph concerns the Machine Pool transactions:

> "Proof may be seen by a brief glance at the pool operations dealt with and actually carried out. Altogether 567 demands have been dealt with, to a total value of 4.6 million Reichsmark."

Reeder then gave a number of figures. I shall pass over these and I come to the end of the first paragraph, Page 57 in the German text:

"The legal basis for the requisition of these machines was the Hague Convention of 1907, Articles 52 and 53. The formulation of the Hague Convention which provides for requisitions only for the benefit and the needs of the occupying power, applied to the circumstances of the year 1907, that is, to a time when war actions were confined within narrowly restricted areas and practically the military front alone was involved in war operations. In view of such space restrictions for war, it was evident that the provisions of the Hague Convention, stipulating that requisitions be made solely for the needs of the occupying power, were sufficient for the conduct of operations. Modern war, however, which by its expansion to total war is no longer bound by space but has developed into a general struggle of peoples and economies, requires that while the regulations of the Hague Convention should be maintained, there should be a sensible interpretation of its principles adapted to the demands of modern warfare."

I pass to the end of this quotation:

"Whenever, in requisitioning, reference was made to the ordinance of the military commander of 6 August 1942, this was done in order to give the Belgian population the necessary interpretation of the meaning of the principle of the requisition regulations of the Hague Convention."

Such an interpretation may leave jurists wondering, who have not been trained in the school of National Socialism. It cannot in any case justify the pillage of industry and the subjugation of Belgian production.

These few considerations show how subtle and varied were the methods employed by the Germans to attain their aims in the economic sphere. In the same way as the preceding statements on clearing operations and the utilization of occupation costs, they make it possible to specify the methods employed for exacting heavy levies from the Belgian economy.

Whereas in certain spheres, as in agriculture and transport, it has been possible to assess the extent of economic pillage with a certain exactitude, there are, however, numerous industrial sectors where assessments cannot yet be made. It is true that a considerable part of the industrial losses correspond to the clearing operations, particularly through requisition of stocks. It will therefore be necessary to confine ourselves to the directives of the policy practiced by the Germans.

We may examine briefly the way in which economic spoliation took place in three sectors: industry, agriculture, and transport.

First the industrial sector: The clearing statistics, in the first place, give particulars of the total burdens imposed upon the various industrial branches.

The report of the military administration in Belgium, to which I shall refer constantly, gives the following details, briefly summarized:

From the very beginning of the occupation the Germans demanded an inventory of supplies on which they were to impose considerable levies, notably textiles and non-ferrous metals.

I shall confine myself to some brief remarks on textiles and non-ferrous metals. The example of the textiles industry is particularly revealing: On the eve of the invasion, the Belgian textile industry, with its 165,000 workers, was the second largest industry in Belgium after the metal industry. Under the pretext of avoiding the exhaustion of the very important supplies then still available, an ordinance of 27 July 1940 prohibited the textile industry to work at more than 30 percent of its 1938 capacity. For the period from May to December 1940 alone requisitions were not less than 1,000 million Belgian francs. They particularly affected nearly half of the wool stock available in the country on May 10, 1940, and nearly one-third of the stock of raw cotton.

On the other hand, the forced closing down of factories constituted for the Germans an excellent excuse for taking away, on the pretext of hiring, unused equipment, unless it was requisitioned at a cheap price. The ordinance of 7 September 1942, which is to be found in the document book under Document Number RF-174, laid down the manner in which factories were to be closed in execution of the right accorded to the occupation authorities; and it also gave the right to dissolve certain business and industrial groups and to order their liquidation. Consolidation of enterprises was the pretext given. In the month of January 1944, 65 percent of the textile factories had been stopped.

I shall not go into the details of these operations and I shall pass on to Page 58. The report of the German military administration quoted above gives particularly significant figures as to production. Of a total output of the wool industry of 72,000 tons for the entire period May 1940 to the end of June 1944, representing a value of about 397 million Reichsmark, the distribution of the deliveries between the German and Belgian markets is the following: The German market, 64,700 tons, 314 million Reichsmark; the Belgian market, 7,700 tons, 83 million Reichsmark. The whole spoliation of the textile industry is contained in these figures.

Belgian consumption obviously had to suffer a great deal from the German policy of direction of the textile market. The same report of the military administration furnishes details, stating that

in 1938 the needs in textile products amounted in Belgium to a monthly average of twelve kilos. The respective figures for the occupation years are the following: 1940 to 1941—2.1 kilos per head, 1941 to 1942—1.4, 1942 to 1943—1.4, 1943 to 1944—0.7. The diminution of Belgian consumption under the Germans is contained in these two figures; twelve kilos per head in 1938; 0.7 kilo at the end of the occupation.

On the other side, the Belgian Government gives the following details on the pillage of this produce. Compulsory deliveries to Germany during the occupation amounted to:

Cotton yarn, about 40 percent of the production; linen, 75 percent; rayon, 15 percent.

Finally, out of the textile stocks remaining in Belgium a great percentage was still taken away by the Germans through purchases on the Belgian markets, purchases of finished or manufactured products. The equivalent of these forced deliveries can generally be found in the clearing statistics, unless it is placed under misrepresented occupation costs.

I have finished with textiles. As to the non-ferrous metal industry, Belgium was in 1939 the largest producer in Europe of non-ferrous metals, of copper, lead, zinc, and tin. The statistics included in the report of the military command, which are to be found in Exhibit Number RF-173 (Document Number ECH-11), will furnish the evidence for the Tribunal.

On the 18th of February 1941, in connection with the Four Year Plan, the Reich Office for Metals and the Supreme Command of the Army worked out a "metal" plan which provided for Belgian consumption; the carrying out of German orders; exports to the Reich.

These various measures did not satisfy the occupying authorities so they ran a certain number of salvage campaigns which were called "special actions" (Sonderaktionen) in accordance with the method they applied in all the countries of Western Europe. I shall not go into the details of these actions which are described on Page 63 and following of the report; the salvage campaigns for bells, for printing lead, for lead and copper—from information given by the Belgian Government, Document Number RF-146, Page 65 of the report.

In other fields, but without admitting it, the Germans pursued a policy intended to eliminate or to restrict Belgian competition, so that in case of a German victory the economic branches concerned would have had to restrict themselves to the Belgian market, which would then have remained wide open to German business.

These attempts at immediate or future suppression of competition were clearly evident in the case of foundries, glass works, textile

industries, construction works, car assembling, construction of material for narrow-gauge railroads, the leather industry, and especially shoe-manufacturing, for which reconstruction of destroyed factories was systematically prohibited.

But in addition, in the textile industry as well as in numerous sectors, especially in the iron-smelting industry, the weakening of the economy cannot be measured only by the scale of the compulsory deliveries but in relation to the policy practiced by the occupying power. Belgian industry, especially coal and iron, suffered considerable losses as a result of directives imposed to finance the war needs at a cheaper rate.

I shall pass over the question of prices of coal. The control of the coal industry was assured by the appointment of a plenipotentiary for coal and by centralization of all sales in the hands of a single organism, the "single seller," under Belgian direction but with a German commissioner. I am referring to the Belgian coal office, one seller to a single purchaser, "Rheinisch Westfälisches Kohlensyndikat," which ordered deliveries to be made to the Reich, to Alsace-Lorraine and Luxembourg.

According to the same German report, Page 67, in spite of the rise in the price of coal agreed to on 20 August 1940, 1 January 1941, and 1 January 1943, the coal industry showed considerable losses in the course of the occupation years. In February 1943, the coal office having agreed to an increase of the sales price, the price per ton for the Belgian coal was higher than on the German home market. The German commissioner for the mining industry forced the Belgian industry to pay the difference in rate when exporting to the Reich by means of premiums.

From the figures indicated in Exhibits Numbers RF-176 (Document Number ECH-35) and 178 (Document Numbers ECH-26 and 27), the Tribunal may gather information as to the financial losses caused by exploitation. The report of the military administration gives in its eleventh section details regarding the iron-smelting industry: It suffered as greatly as had the coal industry during the occupation. In the Thomas smelting works in particular, the losses resulted from the increase in the cost price and from price fluctuations in respect to certain elements pertaining to the manufacture.

In this one sector, according to the memorandum of the Belgian Government, the respective losses may be assessed at 3,000 million Belgian francs. Still, according to the same report, out of a total production of 1,400,000 tons, 1,300,000 tons of various products were exported to Germany not including the metal delivered to Belgian factories working exclusively for Germany.

Editor's Note

In spite of the meticulous care given to this edition certain inexactitudes may slip in, some originating with the speakers themselves. In order to give a faithful rendering of the Record we are avoiding alterations, but corrective notes will be printed in the final volume.

The General Secretary's Office would be grateful if the reader would draw to his attention any errors or omissions, so that they may also be included in the list of corrections.

S. Paul A. Joosten
Deputy General Secretary.

Address:
Lawrence Deems Egbert, Editor
International Military Tribunal Record
APO 696 A, United States Army.

According to information furnished by the Belgian Government, the Germans removed in bulk and transported to Germany material of very great value. The total industrial spoliation is estimated by the Belgian Government at a sum of 2,000 million Belgian francs, at the 1940 rate, of course.

These removals constitute a real material loss; and from the fragmentary indications given to the Tribunal, this sum of 2,000 million Belgian francs is the figure which I ask the Tribunal to note.

In view of the information available at present it is not easy to estimate the extent of the levies made on industry; it is even more difficult to evaluate it in the agricultural sphere, which I shall briefly present.

Apart from the admissible needs of the occupation troops, the German authorities made an effort to obtain a supplement to the food levies in Belgium for the purpose of increasing the food of the Reich and other territories occupied by its troops. After having employed direct methods of levying, the Germans used the services of unscrupulous agents whose job it was to purchase at any price on the illicit markets; and the black market in this field assumed such proportions that the occupying authorities were frequently alarmed and in 1943 had to suppress it.

Apart from the damage to livestock and to the woods and forests, which play an important part in Belgium, the damage resulting from abnormal cutting in the forests brought about an excess in deforestation reaching a figure of 2 million tons; the damage to capital caused by this premature cutting can be estimated at about 200 million Belgian francs.

The military operations proper caused damage to an extent of 100 million Belgian francs; and according to the memorandum of the Belgian Government, the total damage caused to forestry reaches a figure of 460 million Belgian francs. Taking into account the damage caused by abnormal cutting in the forests and by the establishment of airfields, the Belgian Government estimates at approximately 1,000 million Belgian francs the losses suffered by its agriculture during the occupation.

It must be noted, without going further into this subject, that these are net losses in capital, constituting a veritable exhaustion of substance and a consequent reduction and real consumption of the nation's resources. With this I have concluded my presentation concerning agriculture, and I pass on to transport.

The conduct of war led the Germans to utilize to the utmost the railroad network and the canal and river system of Belgium. The result was that the railroads and river fleet are included in those branches of Belgian economy which suffered most from the occupation and the hostilities which took place on Belgian soil. German

traffic was simultaneously a traffic of personnel as demanded by military operations and a traffic of merchandise, coal, minerals, pit-props, foodstuffs, not to speak of the considerable quantities of construction material required for the fortification of the coast of the North Sea.

Railroads: The report of the Belgian Government shows that the damages suffered by the railroads consisted of losses in capital as well as of losses in revenue. Losses in capital resulted first and principally from requisitions and removals, to which the Germans proceeded in a wholesale fashion from the moment of their entry into Belgium. Thus in particular they immediately drained the stock of locomotives under the pretext of recovering German locomotives surrendered to Belgium after the war of 1914-1918 as a means of reparation.

In addition to seizures of locomotives, the Belgian National Railroad Company was subjected to numerous requisitions of material, sometimes under the form of rental; these requisitions are estimated at 4,500 million francs at the 1940 value.

Against the losses in capital, losses in revenue (Page 77) resulted principally from the free transportation service required by the Wehrmacht, also from the price policy pursued by the occupying power. These levies and these exceptional costs could be borne by the organizations concerned only by making large drains on the treasury.

Regarding automobiles, I shall say hardly anything (Page 79). The losses amount to about 3,000 million Belgian francs, out of which individuals received as compensation for requisition approximately 1,000 million (at the 1938 value).

We come now to river transport: The carrying out of the plan for the economic spoliation of Belgium presented the occupying power with serious transportation problems, to which I have already called attention.

In this sphere the German military administration imposed upon Belgian river shipping very heavy burdens. According to the report of the Belgian Government, the losses suffered by the Belgian river fleet took three forms: Requisitions and removals by the Germans; partial or total damage through military operations; excessive deterioration of material. These three forms of damage amount to 500 million francs, of which only 100 million are represented in clearing. Damage to waterways (Page 81), rivers, streams, and canals, can be evaluated at between 1,500 million to 2,000 million francs, at the 1940 value, especially with respect to requisitions and removals of public or private harbor installations.

Fishing boats were requisitioned for marking the river Scheldt and then disappeared without leaving any trace. Others suffered damage through requisitions or hire for military maneuvers.

Before closing this chapter concerned with levies in kind, the question of removal of industrial material may be briefly mentioned (Page 82).

It has already been pointed out that the policy of production and reorganization as pursued by the military administration had as a result the closing of numerous enterprises, thus enabling the Germans to seize a great number of machines under the pretext that they were out of use.

There are no branches of industry which were not despoiled in this way. The metal industry seems now to be one of those that suffered most. Though we do not wish to try the patience of the Tribunal, it seems particularly pertinent to draw its attention briefly to the actual technique used in the organization of the levies, details which were decided upon even before the entry of German troops into the territories of Western Europe, organization putting into play military formations, organization emanating from the economy bureau of the General Staff of the Army and hence from the Defendant Keitel as Chief of the OKW.

The existence of these military detachments, veritable pillaging detachments, is proved by various German documents. Under the name of economic detachments, "Wirtschaftstrupps," or special commandos, these pillaging crews carried out nefarious and illegal activities in all the countries of Western Europe.

The secret instructions for the "economic detachment J," stationed at Antwerp, are found in the file under Document Number RF-183. They constitute a very important, irrefutable document on the German intention to pillage and an additional proof of the contempt of the National Socialist leaders for the rules of international law.

These instructions date from the last days of May 1940. I should like to read a few excerpts of these instructions to the Tribunal (Document Number RF-183, Page 1).

> "The economic detachments are formed by the office for economic armament of the High Command of the Wehrmacht. They are placed at the disposal of the High Command of the Army for employment in the countries to be occupied."

I shall skip to the bottom of Page 1 of the German document.

> "It is their task to gain information quickly and completely in their districts of the scarce and rationed goods (raw materials, semi-finished products, mineral oil, *et cetera)* and machines of most vital importance for the purposes of national defense and to make a correct return of these stocks.

"In the case of machines, the requisition will be effected by means of a label, in the case of scarce and rationed goods, both by labelling and by guarding.

"Furthermore, the economic detachments have the duty of preparing and, upon order of the Army Group, of carrying out the removal of scarce and rationed goods, mineral oils, and the most important machines. These tasks are the exclusive responsibility of the economic detachments.

"The economic detachments are to commence their activities in newly occupied territories as early as the battle situation permits."

Machines and raw materials having thus been found and identified, the new organizations went into action to dismantle and put to use these machines and raw materials in Germany.

The above quoted document RF-183 gives precise and very curious information on the formation and the strength of detachment "J" at Antwerp. The eight officers are all reserve officers, engineers, wholesale dealers, directors of mines, importers of raw materials, engineering consultants. Their names and their professions are mentioned in the document. These men are therefore all specialists in commerce and industry. The choice of these technicians cannot be attributed to mere chance.

According to the above instructions and more especially the instructions found under date of 10 May 1940, coming from General Hannecken (Exhibit Number RF-184), Document Number ECH-33, once the machines and the stocks have been identified, the offices set to work, the Roges on one hand, and the compensation bureaus on the other hand, to whose activities attention has already been called in connection with the pillage of Holland and of the Belgian non-ferrous metal industry.

Another document, which is likewise presented as Exhibit Number RF-184 (Document Number ECH-33), shows that the very composition of the economic detachments emanates from the High Command. Quoting from Page 6:

"The economic detachments already mentioned in Section I, which are composed of experts for the branches of industry found in the respective areas, shall gain information and secure stocks of raw materials and special machinery for the production of ammunition and war equipment which are at present important."

THE PRESIDENT: Is that quotation set out in your dossier?

M. DELPECH: The quotation is on Page 84, bis.

THE PRESIDENT: Would this be a convenient time to break off?

[A recess was taken.]

M. DELPECH: Besides the economic detachments to which I have just drawn the attention of the Tribunal, detailed to remove and redistribute machinery either to factories working in the country on behalf of the occupying power or to factories in Germany, these operations were directed by the Machine Pool Office.

Such offices were set up in all the occupied territories of Western Europe during the last months of 1942, upon the order of the Minister for Armaments and War Production, for example, the Defendant Speer, and the Office of the Four Year Plan, for example, the Defendant Göring.

The Machine Pool Office for Belgium and Northern France was set up upon the decision of the Chief of the Military Economic Section in Brussels under date of 18 February 1943. Its activity has already been outlined to the Tribunal in connection with the spoliation of non-ferrous metal industries. Its activity did not stop there; it is found in all branches of industry. The Exhibit Number RF-185 (Document ECH-29) can give us figures on its activity. This activity continued to the very last days of the occupation. Requisitions of machinery and instruments were not limited to industry; Documents Numbers ECH-16 and ECH-15 (Exhibits Numbers RF-193 and 194) show the extent of the requisitioning of scientific instruments.

I have finished with the levies on industrial material.

I shall present briefly in the fourth chapter the question of services, first of all:

1. The billeting of troops. By an ordinance dated 17 December 1940, Page 88, the Germans imposed the costs of billeting their troops upon Belgium. Having done this, the occupation authorities justified themselves by a rather liberal interpretation of Article 52 of the Hague Convention, according to the provisions of which the occupying power may require levies in kind and in services.

The Wetter report (Document Number RF-186) wrongly contends that the Convention does not specify by whom the settlement should be made; Article 49 gives the right to make the occupied country defray the expenses.

Therefore Belgium had to meet expenses to the amount of 5,900 million francs for billeting costs, equipment, and furniture. The payments of the Belgian treasury for billeting is estimated in the report of the Belgian Military Administration at 5,423 million francs.

It is evident that under the pretext of billeting costs, other expenses were entered to the detriment of the Belgian economy, as in other occupied countries—the purchases of furniture which was to be sent to Germany.

2. Transport and Communications.

To assure transport and communications, the Belgian treasury had to advance a total of 8,000 million francs. As already pointed out to the Tribunal, the seizure by the occupation authorities covered even the river fleet to the extent that the transport plan restricted the use of rail to the operation troops.

According to Article 53 of the Hague Convention, the occupying army has the right to seize means of transport and communications provided that it returns them and pays indemnity. That army, however, does not possess the right to make the occupied country pay the costs of transport put at the army's disposal. That is, however, what Germany did in Belgium.

3. Labor.

The deportation of labor to Germany and forced labor in Belgium have already been explained to the Tribunal. It therefore seems unnecessary to stress this point (Page 91). At the most, we should recall certain consequences unfavorable to the Belgian economy. The measures concerning the deportation of labor caused an economic disorganization and weakening without precedent.

Secondly, the departure of workers and particularly of skilled workers inadequately replaced by unskilled labor—women, adolescents and pensioners—brought about a decrease in production at the same time as an increase in the cost price, which contributed to complicating the problem of the financial equilibrium of industrial enterprises.

Third observation: The requisition of labor was the cause of political and social discontent owing to the dispersion of families and the inequalities which appeared in the requisition of workers.

Fourth and last observation: The workers were required for spheres of work which were not necessarily their own, which resulted in a loss of their professional skill. Personnel were divided and unclassed. The closing of artisan workshops brought about changes more or less felt in certain branches of production. The losses thus suffered cannot be measured in terms of money, but they are none the less important to be submitted to your jurisdiction.

I have finished with this subject and will turn to a last chapter, Chapter V, the acquisition of Belgian investments in foreign industrial enterprises.

Since 1940 according to their general policy in all occupied countries of Western Europe, the Germans concerned themselves with acquiring shares in Belgian financial enterprises abroad. The official German point of view emerges clearly from a letter dated 29 July 1941, from the Minister of Finance to the Military Commander in Belgium. I have submitted it under Number 187, in the document book (Document Number RF-187).

This conception of the right to acquire shares is certainly very far from the idea as laid down by the Hague Convention in respect to the right of requisition. It clearly shows the German leaders' determination for enrichment at the expense of Belgium.

Thus, the Germans, since May 1940, sought to obtain influence in Belgian holding companies. Not being able to violate directly international laws, particularly Article 46 of the Hague Convention, they strove to influence the members of the executive boards through persuasion rather than by force.

In the course of a conference held on 3 May 1940 at the Reich Ministry of Economics, dealing with Belgian and Dutch capital which it would still be possible to acquire, it was decided that the Military Commander in Belgium should take all necessary measures to prevent, on the one hand, the destruction, transfer, sale, and illegal holding of all bonds and stocks of these countries and, on the other hand, to induce Belgian capitalists to hand over their foreign securities to the Germans. The minutes of this conference are found in the document book under Number RF-187 above.

To prevent the flight of any capital, an ordinance of 17 June 1940 was promulgated, subjecting to authorization the sending abroad of any securities and any acquisitions or disposal of foreign securities.

From 2 August 1940 the German leaders and the Defendant Göring himself took a definite stand on this point. In the course of the general remarks on economic plundering secret directives issued in this respect by the Defendant Göring were read to you. It is the document submitted under Number RF-105 (Page 97).

In spite of the German assurances and in spite of the wish of the occupying power to preserve the appearance of regularity, the German desire to absorb certain shares met with serious resistance. The occupation authorities several times had to resort to compulsion to conclude sales, in spite of the rights which they had reserved for themselves in the above cited decree of 27 August 1940. This was particularly the case with regard to the shares held by the Belgian Metal Trust in the electrical enterprises of Eastern Silesia and, still more clearly, the case regarding the shares of the Austrian Metal Company, which at that time were wanted by the Hermann Göring Works.

The Belgian ill-will increased as the German determination to pillage became more evident. In this report of 1 December 1942, Exhibit Number RF-191 (Document Number ECR-132), the German Commissioner with the National Bank very clearly denounces this resistance on the part of the Belgian market. Almost all acquisitions which could be realized by the Germans were settled by means of clearing (Page 98).

The balance of clearing capital credited to Belgium, to the amount of 1,000 million Belgian francs on 31 August 1944, represents a forced loan imposed upon Belgium without any legal or logical relation to occupation costs, unless it is the Germans' will to hegemony.

Such a practice, contrary to the principles of international law and to the rules of criminal law of civilized nations, falls under Article 6(b) of the Charter of the International Military Tribunal and constitutes an act of pillage of public or private property such as is envisaged in the above mentioned text.

Closely allied to the acquisition of shares and always within the framework of legality, the levies made by the German authorities on foreign, enemy, and Jewish property, should be pointed out to the Tribunal.

As to foreign property seized by the Germans, it must be mentioned that this measure was applied to French capital in Belgium in spite of numerous protests by the French Government. As to Jewish property, for the years 1943 and 1944, the figures are presented in Document Number ECH-35 (Exhibit Number RF-192).

With this I conclude the presentation of the economic spoliation of Belgium (Page 100).

The damage caused to Belgian economy in its principal branches have just been submitted to the Tribunal. The statistical data have been taken either from German reports or from official reports of the Belgian Government. The available estimates and figures are not yet sufficiently exact to fix the costs of war, the occupation and economic spoliation of Belgium; some losses and damages cannot be expressed in money. Among them, first of all, we must mention the privations resulting from the German commandeering of a large part of food supplies and from the particular situation of billeting and clothing. This purely material aspect of the question should not cause us to overlook the consequences of the occupation upon the public health (Page 103). For lack of statistical data, it is difficult to show precisely the final state of public health resulting from the particular circumstances.

One fact, however, must be remembered: The considerable increase in the number of persons who were eligible for special invalid diets. This number rose from 2,000 a month in 1941 to more than 25,000 a month in 1944. It had, therefore, increased more than ten-fold, in spite of the rationing measures which became more and more severe.

This increase in nutritional aid given to sick persons deserves the attention of the Tribunal, less for itself and for its statistical interest, than because it is the indication of the increase of disease

in Belgium. This increase is itself the result of the undernourishment of the population during the four years of occupation.

This deplorable state of affairs, however, had not escaped the attention of the occupation authorities, as appears from the letter of the Military Commander in Belgium already quoted which is found in the document book under Document Number RF-187:

> "Regarding the food situation in Belgium, neither the minimum for existence for the civilian population is secured nor the minimum amount necessary for feeding heavy laborers who are employed solely in the interest of the German war economy."

I shall not dwell on this. This undernourishment of the Belgian population has been the inevitable and the most serious result of the huge levies made by the occupation authorities who willfully disregarded the elementary requirements of an occupied country in order to pursue only the war aims of the Reich.

The lowering of the average standard of health and the rise in the death rate in Belgium from 1940 to 1945 may therefore be rightly considered the direct result of the spoliations committed by the Germans in Belgium in transgression of international law.

I have concluded the presentation on Belgium.

I would like to make a few brief remarks on the economic pillaging of Luxembourg (Page 106).

Supplementing the presentation on Belgium it is fitting to present to the Tribunal some details on the conduct of the Germans in Luxembourg. The Government of the Grand Duchy has submitted a general summary of its accusations which has been lodged with the Tribunal as Document Number UK-77 and in which an extract covering the crimes against property, the economic section, is in the document book under the Number RF-194.

The Germans, shortly after their entry into the Grand Duchy, proceeded to annex it in fact. This attitude, similar enough to that adopted towards the inhabitants of the Departments of Moselle, Bas-Rhin, and Haut-Rhin, calls for some remarks.

As was their wont, one of the first measures they put into effect was the exchange of the Luxembourg money at the rate of 10 Luxembourg francs to 1 mark. This was the subject of the ordinance of 26 August 1940, to be found in the document book under Number 195 (Document Number RF-195). This rate of exchange did not correspond to the respective purchasing power of the two currencies. It constituted a considerable levy on the wealth of the inhabitants and especially assured the Germans of a complete seizure of the monies. It thus procured for them the means for seizing a considerable part of the reserves of raw materials and

manufactured goods of the country. The purchases were paid for in depreciated marks on the basis of controlled prices imposed by the Germans.

Finally, by the Ordinance of 29 January 1941, the Reichsmark was introduced as the only legal tender (ordinance submitted as Document Number RF-196). The Luxembourg francs and the Reichskreditkasse notes were taken out of circulation, as well as Belgian francs, up to then considered as currency of the Franco-Luxembourg monetary union. All of these became foreign currency, as from 5 February 1941.

I should like to draw the attention of the Tribunal to the fact that of all the countries occupied by Germany, Luxembourg is, like Alsace and Lorraine, one of the few countries which was totally deprived of its national currency.

Moreover, to procure for the Reich the financial means necessary for the prosecution of the war, the ordinance of 27 August 1940 (Document Number RF-197) prescribed compulsory delivery of gold and foreign currency. Moreover, the same ordinance stipulated that foreign shares and bonds had to be offered for sale to the Reichsbank at rates and under conditions fixed by the occupying power.

As has already been pointed out, the Germans seized industrial stocks. In this respect, the report dated 21 May 1940, on the economic situation in Holland, Belgium, and Luxembourg, contains information on the stocks found in the country:

1,600 million tons of iron ore; 125,000 tons of manganese; 10,000 tons of crude iron; 10,000 tons of ferro-manganese; 36,000 tons of plated products and finished products, and I could continue this enumeration. The German seizure spread from stocks to the management of the industrial production.

According to the memorandum presented by the Reparations Commission of the Luxembourg Government, Document Number RF-198, the total economic damages amount to 5,800 million Luxembourg francs at the 1933 value. This figure can be analyzed as follows:

Industry and commerce, 1,900 million; Railroads, 200 million; Roads and Highways, 100 million; Agriculture, 1,600 million; Damage to property in general, 1,900 million.

From the same official source, the total loss in capital represents about 33 percent of the national wealth of Luxembourg, before the war estimated at approximately 5,000 million Luxembourg francs.

The effect on the financial and monetary situation of the country was a loss exceeding 6,000 million Luxembourg francs. In these damages the increase in circulation of money and the amount of

forced investments in Germany—more than 4,800 million Luxembourg francs—as well as an additional charge imposed upon the taxpayers of the Grand Duchy following the introduction of the German fiscal system figure particularly. To these burdens must be added the skimming of profits, fines, and the allegedly voluntary gifts of every kind imposed upon Luxembourg.

Similar to what was done in other countries, the Ordinance of 21 February 1941 (Document Number RF-199, Exhibit Number RF-199 of the document book concerning Luxembourg) provided that no German managers could be appointed in large enterprises, particularly in smelting works, who—and this is the text of the ordinance—"would not be prepared to favor the interests of Germanism in every circumstance."

The task of these commissioners was to insure for the Reich, within the scope of the Four Year Plan, the direction and control of exploitation in the exclusive interest of the German war effort. Thus, on 2 August 1940, the "Reichskommissar" for the administration of enemy property appointed to the largest metal company in Luxembourg, the United Steel Works of Burbach-Eich-Dudelange (Arbed), three German commissioners who ensured the complete control of the company. Neither did other large companies escape this domination as can be seen from the documents submitted to the Tribunal under Number 200 (Document Number RF-200).

The spoliation of Luxembourg and foreign interests in the insurance field, one of the most important branches of Luxembourg's activities, was complete. With the exception of three Swiss companies and a German company, all transactions were prohibited to the Luxembourg companies, whose assets were transferred to German insurance companies—in an official way as regards the national companies, and secretly as regards the foreign companies.

The insurance companies of Luxembourg were deprived of the premiums from fire insurance by the introduction of compulsory fire insurance, for which the German companies were given the monopoly.

Introducing in Luxembourg their racial policy, the National Socialists seized and confiscated all Jewish property in the Grand Duchy to the profit of the "Verwaltung für die Judenvermögen" (Administration of Jewish Property).

Also in regard to the Umsiedlungspolitik (resettlement policy), 1,500 families (that is 7,000 Luxembourg persons) were deported. The Germans took possession of their property. A German trust company, set up in the German Office for Colonization and Germanization, was charged with the administration of this property, and, in fact, set about to liquidate it. Important assets were thus confiscated and transferred to the Reich.

Germans from the Tyrol were, as has already been pointed out, installed in the buildings, and industrial, commercial, and artisan enterprises of the deportees.

That is to say, Your Honors, that the Grand Duchy of Luxembourg was the victim of economic pillage as systematically organized as that in Belgium.

THE PRESIDENT: M. Delpech, the Tribunal is grateful to you for the way in which you have performed the task which they asked you to perform last night, a task which is not altogether easy, of shortening the address which you had intended to make. As far as they are able to judge, no essential parts of your address have been omitted. It is of great importance that the Trial should be conducted, as the Charter indicates, in an expeditious way, and it was for this reason that the Tribunal asked you, if you could, to shorten your address.

M. DELPECH: I thank you, Your Honor, for your kindness.

THE PRESIDENT: Yes, M. Gerthoffer.

M. CHARLES GERTHOFFER (Assistant Prosecutor for the French Republic): Mr. President, Your Honors, I come to the sixth section of this presentation, which deals with the economic pillage of France.

When the Germans invaded France, they found there considerable wealth. They set about with ingenuity to seize it and also to subjugate the national production.

When they failed to attain their ends by mere requisitions, they resorted to devious methods, using simultaneously ruse and violence, striving to cloak their criminal actions with legality.

To accomplish this, they misused the conventions of the armistice. These, in fact, did not contain any economic clauses and did not include any secret provisions but consisted only of regulations, which were published. Nevertheless, the Germans utilized two clauses to promote their undertakings. I submit to the Tribunal as Document Number RF-203 a copy of the Armistice Conventions, and I cite Article 18, which reads as follows:

> "The maintenance costs of German occupation troops in French territory will be charged to the French Government."

This clause was not contrary to the regulations of the Hague Conventions, but Germany imposed payment of enormous sums, far exceeding those necessary for the requirements of an occupation army. Thus she was enabled to dispose, without furnishing any compensation, of nearly all the money which, in fact, was cleverly transformed into an instrument of pillage.

Article 17 of the Armistice Convention reads as follows:

"The French Government undertakes to prevent any transfer of economic securities or stocks from the territory to be occupied by the German troops into the non-occupied area or into a foreign country. Those securities and stocks in the occupied territory can be disposed of only in agreement with the Reich Government, it being understood that the German Government will take into account what is vitally necessary for the population of the non-occupied territories."

Apparently the purpose of this clause was to prevent things of any kind which might be utilized against Germany from being sent to England or to any of the colonies. But the occupying power took advantage of this to get control of production and the distribution of raw materials throughout France, since the non-occupied zone could not live without the products of the occupied zone and vice versa.

This intention of the Germans is proved particularly by Document Number 1741-PS which was discovered by the American army, and which I now submit to the Tribunal as Exhibit Number RF-204.

I do not want to trouble the Tribunal by reading this long document, I shall give only a short summary.

It is a secret report, dated 5 July 1940 addressed to the President of the Council...

THE PRESIDENT: M. Gerthoffer, as this is not a document of which we can take judicial notice, I think you must read anything that you wish to put in evidence.

M. GERTHOFFER: I shall read a passage of the document to the Tribunal.

THE PRESIDENT: Very well.

M. GERTHOFFER: "Article 17 grants Germany the right to seize the securities and economic reserves in occupied territory, and any arrangements of the French Government are subject to approval by Germany.

"In compliance with the request of the French Government, Germany has agreed that when considering applications of the French Government regarding the disposal of securities and reserves in the occupied zone, she will also take into consideration the needs of the inhabitants of the non-occupied zone."

I shall cite only this passage in order to shorten my explanatory remarks, and I now come to the following document, which is in the nature of a reply to the German official who drew up this

report, a document which I submit as Exhibit Number RF-205 (Document Number EC-409) and which is a document found by the American army. Here is the reply to the document from which I just quoted one passage:

> "The elimination of the demarcation line is now out of the question, and if the revival of the economic life of France is thereby paralyzed, that is quite immaterial to us. The French have lost the war and must pay for the damages. Upon my objection that France would then soon become a center of unrest, I was answered that either shots would settle that or the occupation of the still free zone.
>
> "For all concessions we make, the French must pay dearly in deliveries from the unoccupied zone or the colonies. We must strive to stop non-coordination in the economic field in France."

Finally, another document captured by the U. S. Army which I submit as Exhibit Number RF-206 (Document Number EC-325), signed by Dr. Gramsch, gives us the following information:

> "In the course of the negotiations regarding relaxation of the restrictions of the demarcation line, it has been suggested that the French Government seize the gold and foreign currency in the whole of France."

Further in this document:

> "The foreign currency reserves of occupied France would strengthen our war potential. This measure could, moreover, be used in negotiations with the French Government as a means of pressure in order to make it show a more conciliatory attitude in other respects."

A study of these documents shows the German intent, in disregard of all legal principles, to get all the wealth and economy of France under their control.

Through force the Germans succeeded, after one year of occupation, in putting all or nearly all the French economy under their domination. This is evident from an article, published by Dr. Michel, director of the Economic Office, attached to the Military Government in France which appeared in the *Berliner Börsen Zeitung*, of 10 April 1942. I submit it as Document Number RF-207, and shall read one passage from it:

> "The task of the competent offices of the German military administration should be regarded as directing 'Economic Direction,' that is issuing directives and at the same time seeing that these directives are really followed."

Further, on Page 12 of the statement, Dr. Michel writes:

"Now that the direction of raw materials and the placing of orders has been organized and is functioning efficiently, rigorous restrictions on consumption not important to war economy are a matter of prime consideration in France. The restrictions imposed upon the French population in respect of food, clothing, footwear, and fuel, have been for some time more severe than in the Reich."

After having shown you, Mr. President and members of the Tribunal, in this brief introduction concerning the economic spoliation of France, the consequences of German domination upon this country, I give you an account of the methods employed to arrive at such a result. This will be the purpose of the four following chapters: German seizure of means of payment; clandestine purchases of the black market; outwardly legal acquisitions; finally, impressment of labor.

I. German seizure of means of payment.

This seizure was the result of paying occupation costs, the one-way clearing system, and outright seizures and levies of gold, bank notes, foreign currency, and the imposition of collective fines (Page 15).

Indemnity for the maintenance of occupation troops:

I shall not recapitulate the legal principles of the matter, but shall merely confine myself to a few explanatory remarks, so that you may realize the pressure which was brought to bear on the leaders in order to obtain the payment of considerable sums.

As I have had the honor of pointing out to you, in the Armistice Conventions the principle of the maintenance of occupation troops is succinctly worded, with no stipulation as to the amount and the method of collection. The Germans took advantage of this to distort and amplify this commitment of France, which became nothing more than a pretext for the imposition of exorbitant tribute.

At the first sessions of the Armistice Commission, the discussions bore on this point, while the French pointed out that they could only be forced to pay a contractual indemnity representing the cost of maintaining an army strictly necessary for the occupation of the territory. The German General Mieth had to recognize the just foundation of this claim and declared that troops which were to fight against England would not be maintained at expense to France.

This is evident from an extract of the minutes of the Armistice Commission, which I submit as Document Number RF-208. But later this General Mieth apparently was overruled by his superiors, since in the course of a subsequent session, 16 July 1940, without expressly going back on his word, he declared in this respect that

he could not give any reply, that this question would no longer be discussed, and that, in short, everything necessary would be done to enable the French Government to draw up its budget. This appears from an extract of the minutes of the Armistice Commission which I submit as Exhibit Number RF-209.

On 8 August 1940 Hemmen, Chief of the German Economic Delegation, at Wiesbaden, forwarded a memorandum to General Huntziger, President of the French Delegation, in which he stated:

> "As at present it is impossible to assess the exact costs of occupation, daily installments of at least 20 million Reichsmark are required until further notice, at a rate of exchange of 1 mark to 20 French francs.
>
> "That is to say, 400 million French francs daily. In this amount the costs for billeting troops were not included, but were to be paid separately."

This is found in Document 210 (Document Number RF-210), which I submit to the Tribunal and which bears the signature of Hemmen.

These exorbitant requirements provoked the reply of 12 August 1940, in which it was emphasized that the amount of the daily payment did not permit the supposition that it had been fixed in consideration of the normal forces of an occupation army and the normal cost of the maintenance of this army, that, moreover, such forces as corresponded to the notified figure would be out of proportion to anything that military precedent and the necessity of the moment might reasonably justify. This is the content of a note of 12 August, submitted as Document Number RF-211.

On 15 August 1940 the German delegation took notice of the fact that the French Government was ready to pay some accounts, but in a categorical manner refused to discuss either the amount of payment or the distinction between occupation and operation troops. This is found in Document Number RF-212, which I submit to the Tribunal.

On 18 August the French delegation took note of the memorandum of 15 August and made the following reply (Document Number RF-213):

> "... that France is to pay the costs for the maintenance of operation troops is a demand incontestably beyond the spirit and the provisions of the Armistice Convention.
>
> "... that the required costs are converted into francs at a rate considerably in excess of the purchasing power of the mark and franc respectively; furthermore, that the purchases of the German Army in France are a means of control over the life in this country and that they will, moreover, as the German Government admits, partly be replaced by deliveries in kind."

The memorandum terminates as follows:

"In these circumstances the onerous tribute required of the French Government appears arbitrary and exceeds to a considerable extent what might legitimately be expected to be demanded.

"The French Government, always anxious to fulfill the clauses of the Armistice Convention, can only appeal to the Reich Government in the hope that it will take into account the arguments presented above."

THE PRESIDENT: The Court will adjourn now.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

M. GERTHOFFER: This morning I had the honor of presenting to the Tribunal the fact that the Germans demanded of France an indemnity of 400 million francs a day for the maintenance of their army of occupation. I indicated that the French leaders of that time, without failing to recognize the principle of their obligations, protested against the sum demanded.

At the moment of their arrival in France the Germans had issued, as in the other occupied countries, Reichskreditkasse notes and requisition vouchers over which the bank of issue had no control and which was legal tender only in France. This issue represented a danger, for the circulation of this currency was liable to increase at the mere will of the occupying power.

At the same time, by a decree of 17 May 1940, published in the VOBIF of 17 May 1940, Number 7, which appears as Document Number 214 in the document book (Exhibit Number RF-214), the occupying power fixed the rate of the Reichsmark at 20 French francs per mark, whereas the real parity was approximately 1 mark for 10 French francs.

The French delegation, having become concerned over the increasing circulation of the Reichskreditkasse notes and over the increased volume of German purchases, as well as over the rate of exchange of the mark, was informed by the German delegation, on 14 August 1940, of its refusal to withdraw these notes from circulation in France. This is to be found in a letter of 14 August, which I submit as Document Number RF-215.

The occupying power thus unjustifiably created a means of pressure upon the French Government of that time to make it yield to its demands concerning the amount of the occupation costs, as well as concerning the forced rate of the mark and the clearing agreements, which will be the subject of a later chapter.

General Huntziger, President of the French delegation, addressed several dramatic appeals to the German delegation in which he asked that France should not be hurled over the precipice, as shown by a teletype report addressed by Hemmen on 18 August 1940, to his Minister of Foreign Affairs, a report discovered by the United States Army, bearing the Document Number 1741-PS(5), which I submit to the Tribunal as Exhibit Number RF-216. Here is the interesting passage of this report:

> "These large payments would enable Germany to buy up the whole of France, including its industries and foreign investments, which would mean the ruin of France."

In a letter and a note of 20 August, the German delegation summoned the French delegation to make partial payments, specifying that no distinction would be made between the German troops in France, that the strength of the German occupation would have to be determined by the necessities of the conduct of war. In addition, the fixing of the rate of the mark would be inoperative as far as the payments were concerned, since they would constitute only payments on account. I submit the note of the 20th of August of the German Government as Document Number RF-217.

The next day, 21 August 1940, General Huntziger, in the course of an interview with Hemmen, made a last vain attempt to obtain a reduction in the German demands. According to the minutes of this interview (Document Number RF-218), Germany was already considering close economic collaboration between herself and France through the creation of commissioners of exchange control and of foreign trade. At the same time Hemmen pledged elimination of the demarcation line between the two zones. But he refused to discuss the question of the amount of the occupation costs.

In a note of 26 August 1940, the French Government indicated that it considered itself obliged to yield under pressure and protested against the German demands; this note ended with the following passage:

> "The French nation fears neither work nor suffering, but it must be allowed to live. This is why the French Government would be unable in the future to continue along the road to which it is committed if experience showed that the extent of the demands of the government of the Reich is incompatible with this right to live." (Document Number RF-219.)

The Germans had the incontestable intention of utilizing the sums demanded as occupation costs, not only for the maintenance, the equipment, and the armament of their troops in France, or for operations based in France, but also for other purposes. This is shown in particular in a teletype from the Supreme Command of the Army, dated 2 September 1940, discovered by the United States Army, which I submit as Exhibit Number RF-220 (Document Number EC-204). There is a passage from this teletype message which I shall read to the Tribunal (Page 22):

> "To the extent to which the incoming amounts in francs are not required for the troops in France, the Supreme Command of the Armed Forces reserves for itself the right to make further use of the money. In particular, the allocation of the money to any offices not belonging to the Armed Forces must be authorized by the Supreme Command of the Armed Forces, in order to insure definitely that, first, the entire

amount of francs required by the Armed Forces shall be covered and that thereafter any possible surplus shall remain at the disposal of the Supreme Command of the Armed Forces for purposes important to the Four Year Plan."

From another teletype message, which was seized in the same manner and which I submit as Exhibit Number RF-221 (Document Number EC-201), I read the following:

"It is clear that there was no agreement at all with the French as to what should be understood by 'costs for maintenance of occupation troops' in France. If we are in agreement among ourselves that at the present moment we must, for practical reasons, avoid interminable discussions with the French, on the other hand there must be no doubt that we have the right to interpret the term 'maintenance' in the broadest possible sense."

Further on in the same teletype, Page 24, Paragraph 2, there is the following:

"In any case, the concessions demanded by the French on the question of specifying the amount of occupation costs and of the utilization of the francs thus delivered must be rejected."

And finally the following paragraph:

"The utilization of sums paid in francs.

"Concerning the use of the francs paid which are not really required for the costs of the maintenance of the occupation troops in France, there can, of course, be no discussion with French authorities."

The French then attempted, in vain, to obtain a reduction in the occupation costs and also a modification in the rate of the mark, but the Germans refused all discussion.

At the beginning of the year 1941, negotiations were resumed. In view of the intransigence of the Germans, the French Government suspended payments in the month of May 1941. Then, at the insistence of the occupying powers, they resumed it, but paid only 300 million francs a day. This is found in the document submitted as Document Number RF-222.

On the 15 December 1942, after the invasion of the entire French territory, Germany demanded that the daily payment of 300 million francs be raised to 500 million a day.

The sums paid for the occupation troops increased to a total of 631,866 million francs, or at the imposed rate, 31,593,300,000 marks. This amount is not only to be gathered from the information given by the French administration, but can also be verified by German documents, in particular by the report of Hemmen.

Hemmen, Director of the Ministry of Foreign Affairs in Berlin, had been designated President of the German economic delegation of the Armistice Commission, and he was acting, in fact, under the direct orders of his Minister, Von Ribbentrop, as a veritable dictator in economic questions. His chief assistant in Paris was Dr. Michel, of whom we have already spoken.

While maintaining his functions as chief of the economic delegation of the Armistice Commission of Wiesbaden, the same Hemmen was to be appointed by a decision of Hitler, under date of 19 December 1942, Reich Government delegate for economic questions, attached to the French Government. This is verified in the document submitted as Exhibit Number RF-223 (Document Number 1763-PS).

Hemmen periodically sent secret economic reports to his minister. These documents were discovered by the United States Army. They are of a fundamental importance in this part of the Trial, since, as you will see, they contain Germany's admission of economic pillage.

These voluminous reports are submitted as Exhibits Numbers RF-224, 225, 226, 227, 228, and 229 (Documents Numbers 1986-PS, 1987-PS, 1988-PS, 1989-PS, 1990-PS, 1991-PS) of the French documentation. It is not possible for me, in view of their length, to read them in their entirety to the Tribunal. I shall confine myself to giving a few brief extracts therefrom in the course of my presentation. To show their importance, here is the translation of the last volume of the Hemmen reports. In this last report, printed in Salzburg on 15 December 1944, on Page 26, Hemmen recognizes that France has paid by way of indemnity for the maintenance of occupation troops 31,593,300,000 marks, that is . . .

THE PRESIDENT: M. Gerthoffer, these documents are in German, are they not?

M. GERTHOFFER: Yes, Mr. President, they are in German. I have only been able to have the last one translated into French. Because of their length it has not been possible for me to have all the translations made, but it is from the last volume, which is translated into French, that I will make certain very brief quotations by way of proof.

THE PRESIDENT: Yes, well then are you confining yourself to the last document, and to certain passages in the last document?

M. GERTHOFFER: I shall limit myself to this.

THE PRESIDENT: And then, as these are not documents of which we can take judicial notice, only the parts which you read will be regarded as part of the Record, and be treated as in evidence.

M. GERTHOFFER: This enormous sum imposed was much greater than Germany was entitled to demand. In spite of the enormous sums which the Germans may have spent in France during the first two years, they were not able to use a sum less than half of that for which they were credited.

This is shown in the Hemmen report, where on Page 27 (Page 59 of the French translation) he gives a summary of the French payments made as occupational indemnity, and the German expenses in millions of marks corresponding to these expenses. This summary is very short. I shall read it to the Tribunal. It will constitute a German proof in support of my presentation.

	French payment in millions of marks	*German expenditure in millions of marks*
1940	4,000	1,569
1941	6,075	5,205
1942	5,475	8,271
1943	9,698.3	9,524
1944	6,345	6,748

This makes from 1940 to 1944 a total amount of 31,593,300,000 marks paid by the French and 31,317 million marks of German expenditure.

The figures contained in this table unquestionably constitute the German admission of the exorbitance of the indemnity for the maintenance of occupation troops, for Germany was not able to utilize the credit at its disposal. Most of it served to finance expenses relative to armament, operation troops, and feeding of Germany. This is shown by Document Number EC-232, which I submit as Exhibit Number RF-230.

According to the calculation of the "Institut de Conjoncture," the maximum sum of the indemnity which could be exacted was 74,531,800,000 francs, taking as a basis the average daily costs of upkeep per troop unit during the Allied occupation of the Rhineland in 1919, namely the sum of seventeen francs or twenty-one francs with billeting, which was at that time provided by the German Government. According to the report on the average cost of living (coefficient 3.14) the sum of 21 francs should correspond to 66 francs at the 1939 value when applying the coefficient of depreciation of the franc during the occupation, that is 2.10 percent, or a daily average cost of 139 francs per day.

Granting that the real costs of the occupation army were half of those calculated by Hemmen, that is to say, 27,032,279,120 marks, this sum is still lower than the 74,531,800,000 calculated by the Institut de Conjoncture.

Even accepting the calculation most favorable to the accused, one can estimate that the indemnity imposed without justification

amounted to 631,866 million less 74,531,800,000, that is, 557,334,200,000 francs.

In his final report, Page 10, and Page 22 of the French translation, Hemmen writes:

> "... during the 4 years which have elapsed since conclusion of the Armistice, there has been paid for occupation costs and billeting 34,000 million Reichsmark, or 680,000 million francs. France thus contributed approximately 40 percent of the total cost of occupation and war contributions raised in all the occupied and Allied countries. This represents a charge of 830 Reichsmark, or 16,600 francs, per head of the population."

In the second part of this chapter we shall examine briefly the question of clearing. The Tribunal is acquainted with the functioning of clearing, and I shall not revert to this. I shall indicate under what conditions the French Government at the time was made to sign agreements which were imposed upon it.

Parallel to the discussions relative to the indemnity for the maintenance of occupation troops, discussions were entered into concerning a Clearing Agreement.

On the 24 July 1940 the German Delegation announced that it would shortly submit a project. On 8 August 1940 Hemmen submitted to the French Delegation a project of a Franco-German arrangement for payment by compensation. This project, which I submit as Document Number RF-231(bis) of the French documentation, shows arbitrary provisions, which could not be voluntarily accepted.

It provided for financial transfers from France to Germany without any equivalent in financial transfers from Germany to France. It fixed the rate of exchange at 20 francs for 1 Reichsmark by a unilateral and purely arbitrary decision, whereas the rate on the Berlin Exchange was approximately 17.65 and the real parity of the two currencies, taking into account their respective purchasing power on both markets, was approximately ten francs for one Reichsmark.

I pass to Page 34. The French Delegation of the Armistice Commission submitted unsuccessfully a counter project, on 20 August 1940, and attempted to obtain a modification of the most unfavorable clauses. I submit this project as Document Number RF-232.

On 29 August 1940, the French delegation at the Armistice Commission brought up in detail the question of the parity of the franc and the Reichsmark. It called attention to the fact that the prohibition of the financial transfers from Germany to France would create gross inequality, whereas the transfers in the other direction

were organized, and this meant the French Government giving its agreement to a veritable expropriation of French creditors. An extract from this report is submitted as Document Number RF-233.

In a letter of 31 August, General Huntziger again took up in vain the argument concerning the Franc-Reichsmark rate of exchange. I submit this letter as Document Number RF-234.

On 6 September 1940 the French delegation made a new attempt to obtain a modification of the most unfavorable clauses in the draft of the Clearing Agreement, but it encountered an absolute refusal. The German delegation meant to impose under the cloak of a bilateral agreement a project elaborated by it alone.

I quote a passage from the minutes of the Armistice Delegation (Document Number RF-235). Herr Schone, the German delegate, stated: "I cannot reopen the discussion on this question. I can make no concession."

Concerning the Franc-Reichsmark rate of exchange, on 4 October 1940 Hemmen notified the French delegation that the rate of 20 francs must be considered as definite and according to his own words "this is no longer to be discussed." He added that if the French for their part refused to conclude the payment agreement, that is to say, the arbitrary contract imposed by Germany, he would advise the Führer of this and that all facilities with regard to the demarcation line would be stopped. I submit as Document Number RF-236 this passage of the minutes.

Finally, in the course of the negotiations which followed on 10 October 1940, the French delegation attempted for the last time to obtain an alleviation of the drastic conditions which were imposed upon it, but the Germans remained intransigent and Hemmen declared in particular...

THE PRESIDENT: M. Gerthoffer, do these negotiations lead up to a conclusion, because if they do, would it not be sufficient for your purpose to give us the conclusion without giving all the negotiations which lead up to it?

M. GERTHOFFER: Mr. President, I am just finishing the statement with the last quotation, in which the Tribunal will see what pressure, what threats, were made upon the French, who were then in contact with the Germans. I shall have concluded the discussion on clearing with this quotation, if the Tribunal will allow it, it will be a short one and it will then be finished:

> "You are attempting to make the rate of the mark fictitious. I beg you to warn your government that we shall break off negotiations. I have in fact foreseen that you would be unable to prevent prices from rising, but export prices are

rising systematically. We shall find other means of achieving our aims. We shall get the bauxite ourselves." (Document Number RF-237.)

This is the end of the quotation.

Perhaps the Tribunal will allow me a very brief comment. At the Armistice Commission all kinds of economic questions were discussed; and the French delegates resisted, for Germany wanted to seize immediately the bauxite beds which were in the unoccupied zone. This last sentence is the threat: if you do not accept our Clearing Agreement, we shall seize the bauxite. That is to say, we shall occupy by force of arms the free zone.

The so-called compensation agreement worked only to Germany's advantage. The results of the agreement are the following:

At the moment of liberation the total transfer from France to Germany amounted to 221,114 million francs, while the total transfer from Germany to France amounted to 50,474 million francs. The difference—that is, 170,640 million francs credit balance on the French account—represents the means of payment which Germany improperly obtained through the functioning of the clearing which she had imposed.

I now come to the third part of this chapter, which will be very brief. This is the seizure of goods and collective fines.

Besides the transactions which were outwardly legal, the Germans proceeded to make seizures and impose collective fines in violation of the principles of international law.

First, a contribution of 1,000 million francs was imposed upon the French Jews on 17 December 1941 without any pretext. This is shown in the documents submitted as Document Number RF-239 and cannot be contested.

Secondly, a certain number of collective fines were imposed. The amount actually known to the Finance Ministry amounts to 412,636,550 francs.

Thirdly, the Germans proceeded to make immediate seizure of gold. Even Hemmen admits in his last secret report, on Pages 33 and 34, Page 72 of the French translation, that on 24 September 1940 the Germans seized 257 kilograms of gold from the port of Bayonne, which represents at the 1939 rate 12,336,000 francs; and in July 1940 they seized a certain number of silver coins amounting to 55 millions.

Still following the secret report of Hemmen, for the period between 1 January to 30 June 1942 Germany had seized in France 221,730 kilograms of gold belonging to the Belgian National Bank, which represents at the 1939 rate the sum of 9,500 million francs.

It is not possible for me to present in detail the conditions under which the Belgian gold was delivered to the Germans. This question in itself would involve me in an explanation which would take up several sessions. The fact is undeniable since it is admitted by Hemmen. I shall simply indicate that as early as the month of September 1940, in violation of international law, Hemmen had insisted on the delivery of this gold, which had, in May 1940, been entrusted by the National Bank of Belgium to the Bank of France. Moreover, these facts are part of the accusations made against the ex-ministers of the Vichy Government before the High Court of Justice in Paris.

The results of this procedure were long, and frequent discussions took place at the Armistice Commission, and an agreement was concluded on 29 October 1940, but was in fact not carried out because of difficulties raised by the French and Belgians.

According to the former Assistant Director of the Bank of France, the German pressure became stronger and stronger. Laval, who was then determined to pay any price for the authorization to go to Berlin, where he boasted that he would be able to achieve a large scale liberation of prisoners, the reduction of the occupation costs, as well as the elimination of the demarcation line, yielded to the German demands.

Thus, this gold was delivered to the Reichsbank and was requisitioned by order of the Plenipotentiary for the Four Year Plan. The documents relative to this question are submitted as Document Number RF-240.

I shall simply add that after the liberation the Provisional Government of the French Republic transferred to the National Bank of Belgium a quantity of gold equal to that which the Belgian Bank had entrusted to the Bank of France in the month of May 1940.

To conclude the gold question I shall indicate to the Tribunal that Germany was unable to obtain the gold reserve of the Bank of France, for it had been put in safekeeping in good time. Finally, still according to the last secret report of Hemmen, Pages 29 and 49 of the French translation, at the moment of their retreat the Germans seized without any right the sum of 6,899 million francs from branches of the Bank of France in Nancy, Belfort, and Epinal. Document 1741-PS (24). (Exhibit Number RF-241.)

I note for the Record that during the occupation the Germans seized great quantities of gold which they arranged to be bought from private citizens by intermediaries. I cannot give figures for this. I simply touch on the question for the Record.

If we summarize the question of the means of payment which Germany unduly requisitioned in France, we shall reach—still

taking the calculation most favorable to the defendants and taking the maximum amount for the cost of maintaining occupation troops—a minimum total of 745,833,392,550 francs, in round figures 750,000 million francs.

I now come to Page 50, that is to say the use which the Germans made of these considerable sums; and first of all, the black market organized by the occupying power. Here again I don't want to take advantage of your kind attention. I have had the honor of presenting to you the mechanism of the black market in all the occupied countries. I have indicated how it arose, how the Germans utilized it, how, under the orders of the Defendant Göring, it was organized and exploited. I do not wish to revert to this, and I shall pass over the whole section of my written exposé which was devoted to the black market in France.

I come to Page 69 of my written exposé. Chapter 3: Ostensibly legal acquisitions.

Under the pressure of the Germans, the Vichy Government had to consent to reserve for them a very high quota of products of all kinds. In exchange the Germans undertook to furnish raw materials, the quantities of which were determined by them alone. But these raw materials, when they were delivered, which was not always the case, were for the most part absorbed by the industry which was forced to supply them with finished products. In fact, there was no compensation, since the occupiers got back in the form of finished products the raw materials delivered and did not in reality give anything in return.

In the report of the Economic Control which has already been quoted, submitted as Document Number RF-107, the following example may be noted which I shall read to the Tribunal:

> "An agreement permitted the purchase in the free zone of 5,000 trucks destined for the German G.B.K., whereby the Reich furnished five tons of steel per vehicle or a total of 25,000 tons of steel destined for French industry. In view of the usual destination of the products of our metal industry at that time, this was obviously a one-sided bargain, indeed if our information is exact, the deliveries of steel to be made in return were not even fulfilled, and they were partly used for the defense of the Mediterranean coast, rails, antitank defenses, *et cetera.*"

It is appropriate to call attention to the fact that a considerable part of the levies in kind were the object of no regulation whatever, either because the Germans remained debtors in these transactions, or that they considered without justification that these levies constituted war booty.

In regard to this there are no documents available; however, the United States Army has discovered a secret report of one called Kraney, the representative of Roges, an organization which was charged with collecting both war booty and purchases on the black market. It appears from this report that in September 1944, the Roges had resold to Germany for 10,858,499 marks, or 217,169,980 francs, objects seized in the southern zone as war booty. I submit this document as Exhibit Number RF-244.

As a result of the means of payment exacted by Germany and of requisitions regulated by her, or not, France was literally despoiled. Enormous quantities of articles of all kinds were removed by the occupiers. According to information given by the French statistical services, preliminary estimates of the minimum of these levies have been made. These estimates do not include damages resulting from military operations, but solely the German spoliations, computed in cases of doubt at a minimum figure. They will be summarized in the eight following sections.

1. Levies of agricultural produce.

I submit as Document Number RF-245, the report of the Ministry of Agriculture and a statistical table drawn up by the Institut de Conjoncture, summarizing the official German levies which included neither individual purchases nor black market purchases which were both considerable. It is not possible for me to read to the Tribunal a table as long as this; I shall confine myself to giving a brief résumé of this statistical table.

Here are some of the chief agricultural products which were seized and their estimate in thousands of francs (I am indicating the totals in round figures): Cereals, 8,900,000 tons, estimate 22 million francs; meat, 900,000 tons, estimate 30 million; fish, 51,000 tons, estimate 1 million; wines, liquors, 13,413,000 hectoliters, estimate 18,500,000; colonial products, 47,000 tons, estimate 805,900; horses and mules, 690,000 head; wood, 36 million cubic meters; sugar, 11,600,000 tons.

I shall pass over the details. The Germans settled through clearing and by means of occupation costs 113,620,376,000 francs; the balance, that is 13,000 million, was not settled in any way.

Naturally, these estimates do not include considerable damage caused to forests as a result of abnormal cutting and the reduction of areas under cultivation. There is no mention, either, of the reduction in livestock and damage caused by soil exhaustion. This is a brief summary of the percentage of official German levies on agriculture in relation to the total French production: Wheat, 13 percent; oats, 75 percent; hay and straw, 80 percent; meat, 21 percent; poultry, 35 percent; eggs, 60 percent; butter, 20 percent; preserved fish, 30 percent; champagne, 56 percent; wood for

industrial uses, 50 percent; forest fuels, 50 percent; alcohol, 25 percent. These percentages, I repeat, do not include quantities of produce which the Germans bought up either by individual purchases or on the black market.

I have had the privilege of presenting to you the fact that these operations were of a considerable scope and amounted for France approximately to several hundred thousand millions of francs. The quantities of agricultural produce thus taken from French consumers are incalculable. I shall simply indicate that wines, champagne, liquors, meat, poultry, eggs, butter were the object of a very considerable clandestine traffic to the benefit of the Germans and that the French population, except for certain privileged persons, was almost entirely deprived of these products.

In Section 2 of this chapter I shall discuss the important question concerning levies of raw materials.

THE PRESIDENT: That would be a good time for us to adjourn for ten minutes.

[A recess was taken.]

M. GERTHOFFER: The summary of the levies in raw materials from the statistical point of view is contained in charts which I shall not take the time to read to the Tribunal. I shall submit them as Document Number RF-246 and point out that the total amount of these supplies reaches the sum of 83,804,145,000 francs.

On Pages 77 to 80 of my written statement I had thought it necessary to make a summary of these charts, but I consider it is not possible to read even the summary because the figures are too numerous.

According to information provided by the French administration, of that sum the Germans settled, by way of occupation costs and clearing, only 59,254,639,000 francs, leaving the difference of 19,506,109,000 francs charged to the French Treasury.

The percentage of the German levies in relation to the whole French production can be summarized in a chart which I have given in my brief and I ask the Tribunal for permission to read it:

"The percentage of levies of raw materials in relation to French production: Coal, 29 percent; electric power, 22 percent; petroleum and motor fuel, 80 percent; iron ore, 74 percent; steel products, crude and half finished, 51 percent; copper, 75 percent; lead, 43 percent; zinc, 38 percent; tin, 67 percent; nickel, 64 percent; mercury, 50 percent; platinum, 76 percent; bauxite, 40 percent; aluminum, 75 percent; magnesium, 100 percent; sulphur carbonate, 80 percent; industrial soap, 67 percent; vegetable oil, 40 percent; carbosol,

100 percent; rubber, 38 percent; paper and cardboard, 16 percent; wool, 59 percent; cotton, 53 percent; flax, 65 percent; leather, 67 percent; cement, 55 percent; lime, 20 percent; acetone, 21 percent."

This enumeration permits us to consider that officially about three quarters of the raw materials were seized by the occupying power, but these statistics must be qualified in two ways: A large part of the quota of raw materials theoretically left to the French economy was in fact reserved for priority industries, that is to say, those industries whose production was reserved for the occupying power. Secondly, these requisitions and percentages include only the figures of official deliveries; but we have seen that the Germans acquired considerable quantities of raw materials from the black market, especially precious metals: gold, platinum, silver, radium, or rare metals, such as mercury, nickel, tin and copper.

In fact, one can say in general that the raw materials which were left for the needs of the population were insignificant.

Now, I come to Section 3: Levies of manufactured goods and products of the mining industry.

As I had the honor to point out to you in my general remarks, the Germans, using divers means of pressure, succeeded in utilizing directly or indirectly the greater part of the French industrial production. I shall not go over these facts again and I shall immediately pass to a summary of the products which were delivered. I submit as Document Number RF-248 a chart which contains statistical data, according to industries, of levies by the occupying power of manufactured goods during the course of the occupation.

I do not want to tax the patience of the Tribunal by reading this; I shall simply cite the summary of this chart, which is as follows: Orders for products finished and invoiced from 25 June 1940 until the liberation—Mechanical and electrical industries, 59,455 million; chemical industry, 11,744 million; textiles and leather, 15,802 million; building and construction material, 56,256 million; mines (coal, aluminum, and phosphates), 4,160 million; iron industry, 4,474 million; motor fuel, 568 million; naval construction, 6,104 million; aeronautical construction, 23,620 million; miscellaneous industries, 2,457 million; making a total of 184,640 million.

These statistics should be commented upon as follows:

1) The information which is contained here does not include the production of the very industrialized departments of Nord and of Pas de Calais, attached to the German administration of Brussels, nor does it include the manufactures of the Haut-Rhin, Bas-Rhin, and Moselle departments, actually incorporated into the Reich.

2) Out of the total sum of 184,640 million francs worth of supplies, the information which we have to date does not as yet permit us to fix the amount regulated by the Germans by way of either occupation costs or clearing, or the balance which was not made the subject of any settlement.

3) If, on the basis of contracts, one made an estimate of the industrial production levied by Germany in the departments of Nord and Pas de Calais, one would obtain a figure for those two departments of 18,500 million, which would bring the approximate total up to more than 200,000 million francs.

The extent of the German levies on manufactured products is summarized in the following chart which I submit to the Tribunal, and which I have summarized on Page 87 of my written statement. I shall take the liberty of reading it once more to the Tribunal. It will show the proportion of the manufactured goods which the French population was deprived of: Automobile construction, 70 percent; electrical and radio construction, 45 percent; industrial precision parts, 100 percent; heavy castings, 100 percent; foundries, 46 percent; chemical industries, 34 percent; rubber industry, 60 percent; paint and varnish, 60 percent; perfume, 33 percent; wool industry, 28 percent; cotton weaving, 15 percent; flax and cotton weaving, 12 percent; industrial hides, 20 percent; buildings and public works, 75 percent; wood work and furniture, 50 percent; lime and cement, 68 percent; naval construction, 79 percent; aeronautic construction, 90 percent.

The scrutiny of this chart leads to the following remarks:

The proportion of entirely finished products is very large, for instance: automobiles, 70 percent; precision instruments, 100 percent; heavy castings, 100 percent; whereas, the proportion of the products in the process of manufacture is not as great, for example: foundry, 46 percent; chemical industry, 34 percent; *et cetera.*

This state of affairs results from the fact that the Germans directed the products in the process of manufacture—in theory reserved for the French population—into finishing industries which had priority, that is to say, whose production was reserved for them.

Finally, through their purchases on the black market, the Germans procured an enormous quantity of textiles, machine tools, leather, perfumes, and so forth. The French population was almost completely deprived of textiles, in particular, during the occupation. That is also the case as regards leather.

Now, I reach Section 4: the removal of industrial tools.

I shall not impose on your time. This question has already been treated as far as the other occupied countries are concerned. I would merely point out that in France it was the subject of

statistical estimates which I submit to you as Document Number RF-251. These statistical estimates show that the value of the material which was removed from the various French factories, either private or public enterprise, exceeds the sum of 9,000 million francs.

It was observed that for many of the machines which were removed, the Germans merely indicated the inventory values after reduction for depreciation and not the replacement value of the machines.

I now come to Section 5: Securities and Foreign Investments. In Document EC-57, which I submitted as Exhibit Number RF-105 at the beginning of my presentation, I had indicated that the Defendant Göring himself had informed you of the aims of the German economic policy and he ventured to say that the extension of German influence over foreign enterprises was one of the purposes of German economic policy.

These directives were to be expressed much more precisely in the document of the 12th of August 1940, which I submit as Exhibit Number RF-252 (Document Number EC-40), from which I shall read a short extract:

> "Since"—as the document says—"the principal economic enterprises are in the form of stock companies, it is first of all indispensable to secure the ownership of securities in France."

Further on it says:

> "The exerting of influence by way of ordinances. . . ."

Then the document indicates all the means to be employed to achieve this, in particular this passage concerning international law:

> "According to Article 46 of the Hague Convention concerning Land Warfare, private property cannot be confiscated. Therefore the confiscation of securities is to be avoided in so far as it does not concern state owned property. According to Article 42 and following of the Hague Convention concerning Land Warfare, the authority exercising power in the occupied enemy territory must restrict itself in principle to utilizing measures which are necessary to re-establish or maintain public order and public life. According to international law it is forbidden in principle to eliminate the still existing boards of companies and to replace them by 'commissioners.' Such a measure would, from the point of view of international law, probably not be considered as efficacious. Consequently, we must strive to force the various functionaries of such companies to work for German economy, but not to dismiss those persons . . ."

Further on:

"If these functionaries refuse to be guided by us, we must remove them from their posts and replace them by persons we can use."

We will briefly consider the three categories of seizure of financial investments, which were the purpose of German spoliation during the occupation, and first of all the seizure of financial investments in companies whose interests were abroad.

On the 14th of August 1940 an ordinance was published in VOBIF, Page 67 (Document Number RF-253), forbidding any negotiations regarding credits or foreign securities. But mere freezing of securities did not satisfy the occupying power; it was necessary for them to become outwardly the owners of the securities in order to be able, if necessary, to negotiate them in neutral countries.

They had agents who purchased foreign securities from private citizens who needed money, but above all, they put pressure on the Vichy Government in order to obtain the handing over of the principal French investments in foreign countries. That is why, in particular, after long discussions in the course of which the German pressure was very great, considerable surrenders of securities were made to the Germans.

It is not possible for me to submit to the Tribunal the numerous documents concerning the surrender of these securities: minutes, correspondence, valuations. There would be without exaggeration, several cubic meters of them. I shall merely quote several passages as examples.

Concerning the Bor Mines Company, the copper mines in Yugoslavia of which the greater part of the capital was in French hands, the Germans appointed, on 26 July 1940, an administrative commissioner for the branches of the company situated in Yugoslavia. This is found in Document Number RF-254 which I submit to the Tribunal. The administrative commissioner was Herr Neuhausen, the German Consul General for Yugoslavia and Bulgaria.

In the course of the discussions of the Armistice Commission Hemmen declared (extract from the minutes of 27 September 1940 at 10:30, which I submit to the Tribunal as Document Number RF-255):

"Germany wishes to acquire the shares of the company without consideration for the juridical objections made by the French. Germany obeys, in fact, the imperative consideration of the economic order. She suspects that the Bor Mines are still delivering copper to England and she has definitely decided to take possession of these mines."

Faced with the refusal of the French delegates, Hemmen declared at the meeting of 4 October 1940 (I submit to the Tribunal an extract from the minutes of this meeting as Document Number RF-256):

> "I should regret to have to transmit such a reply to my government. See if the French Government cannot reconsider its attitude. If not, our relations will become very difficult. My government is anxious to bring this matter to a close. If you refuse, the consequences will be extremely grave."

M. de Boisanger, the French Delegate, replied:

> "I will therefore put that question once more."

And Hemmen replied:

> "I shall expect your reply by tomorrow. If it does not come, I shall transmit the negative reply which you have just given."

Then, in the course of the meeting on 9 January 1941, Hemmen stated—I submit again an extract from the minutes, Document Number RF-257:

> "At first I was entrusted with this affair at Wiesbaden. Then it was taken over by Consul General Neuhausen on behalf of a very high-ranking personage (Marshal Göring), and it was handled directly in Paris by M. Laval and M. Abetz."

As far as French investments in petroleum companies in Romania are concerned, the pressure was no less. In the course of the meeting of 10 October 1940, of the Armistice Commission, the same Hemmen stated (I submit as Document Number RF-258, an extract from the minutes of the meeting):

> "Moreover we shall be satisfied with the majority of the shares. We will leave in your hands anything which we do not need for this purpose. Can you accept on this point in principle? The matter is urgent, as for the Bor Mines. We want all."

On the 22 November 1940, Hemmen stated again (I submit this extract of the minutes of the Armistice Commission meeting as Document Number RF-259):

> "We are still at war and we must exert immediate influence over petroleum production in Romania. Therefore we cannot wait for the peace treaty."

When the French delegates asked that the surrender should at least be made in exchange for a material compensation, Hemmen replied in the course of the same meeting:

> "Impossible. The sums which you are to receive from us will be taken out of the occupation costs. This will save you from using the printing. This kind of participation will be made

general on the German side when the new collaboration policy has once been defined."

We might present indefinitely quotations of this kind, and many even much more serious from the point of view of violation of the provisions of the Hague Convention.

All these surrenders, apparently agreed to by the French, were accepted only under German pressure. Scrutiny of the contracts agreed upon shows great losses to those who handed over their property and enormous profits for those who acquired it, without the latter having furnished any real compensation.

The Germans thus obtained French shares in the Romanian petroleum companies, in the enterprises of Central Europe, Norway, and the Balkans, and especially those of the Bor Mines Company which I mentioned. These surrenders paid by francs coming from occupation costs, rose to a little more than two thousand million francs. The others were paid by the floating of French loans abroad, notably in Holland, and through clearing.

Having given you a brief summary of the seizure of French business investments abroad, I shall also examine rapidly the German seizure of registered capitals of French industrial companies.

Shortly after the Armistice, in conformity with the directives of the Defendant Göring, a great number of French industries were the object of proposals on the part of German groups anxious to acquire all or part of the assets of these companies.

This operation was facilitated by the fact that the Germans, as I have had the honor of pointing out to you, were in reality in control of industry and had taken over the direction of production, particularly by the system of "Paten Firmen." Long discussions took place between the occupying power and the French Ministry of Finance, whose officials strove, sometimes without success, to limit to 30 percent the maximum of German shares. It is not possible for me to enter into details of the seizure of these shares. I shall point out, however, that the Finance Minister handed to us a list of the most important ones, which are reproduced in a chart appended to the French Document Book under Document RF-260 (Exhibit Number RF-260).

The result was that the seizure of shares, fictitiously paid through clearing, reached the sum of 307,436,000 francs; through occupation costs accounts, 160 millions; through foreign stocks a sum which we have not been able to determine; and finally, through various or unknown means, 28,718,000 francs.

We shall conclude the paragraph of this fifth section by quoting part of the Hemmen report relative to these questions (Page 63 of the original and 142 of the French translation). Here is what Hemmen writes, in Salzburg in January 1944, concerning this subject:

"The fifth report upon the activity of the delegation is devoted to the difficulty of future seizures of shares in France, in the face of the very challenging attitude of the French Government concerning the surrender of valuable domestic and foreign securities. This resistance increased during the period covered by the report to such an extent that the French Government was no longer disposed to give any approval to the transfer of shares even if economic compensation were offered."

Further on, Page 63 in the third paragraph:

"During the 4 years of the occupation of France the Armistice Delegation transferred stocks representing altogether about 121 million Reichsmark from French to German ownership, among them shares in enterprises important for the war in other countries, in Germany, and in France. Details of this are found in the earlier reports of the activities of the delegation. For about half of these transfers, economic compensation was given on the German side by delivery of French holdings of foreign shares acquired in Holland and in Belgium, while the remaining amount was paid by way of clearing or occupation costs. The use of French foreign investments as a means of payment resulted in a difference, between the German purchasing price and the French rate, of about 7 million Reichsmark which went to the Reich."

There is reason to emphasize that the profit derived by Germany merely from the financial point of view is not 7 million Reichsmark, or 140 million francs according to Hemmen, but much greater. In fact, Germany paid principally for these acquisitions with the occupation indemnity, clearing, and French loans issued in Holland or in Belgium, the appropriation of which by Germany amounted to spoliation of these countries and could not constitute a real compensation for France.

These surrenders of holdings, carried out under the cloak of legality, moved the United Nations in their declarations made in London on 5 January 1943 to lay down the principle that such surrenders should be declared null and void, even when carried out with the apparent consent of those who made them.

I submit as Document Number RF-261, the solemn statement signed in London on 5 January 1943, which was published in the French *Journal Officiel* on 15 August 1944, at the time of the liberation. I might add that all these surrenders are the subject of indictments before the French Courts of high treason against Frenchmen who surrendered their holdings to the Germans, even though undeniable pressure was brought to bear upon them.

I shall conclude this chapter with one last observation: The German seizure of real estate in France. It is still difficult to give at this time a precise account of this subject, for these operations were made most often through an intermediary with an assumed name. The most striking is that of a certain Skolnikoff, who during the occupation was able to invest nearly 2,000 million francs in the purchase of real estate.

This individual of indeterminate nationality, who lived in poverty before the war, enriched himself in a scandalous fashion, thanks to his connection with the Gestapo and his operations on the black market with the occupying power. But whatever may have been the profits he derived from his dishonest activities, he could not personally have acquired real estate to the value of almost 2,000 million in France.

I submit, as Document Number RF-262, a copy of a police report concerning this individual. It is not possible for me to read this to the Tribunal in its entirety, but this report contains the list of the buildings and real estate companies acquired by this individual. These are without question choice buildings of great value. It is evident that Skolnikoff, an agent for the Gestapo, was an assumed name for German personalities whose identity has not been discovered up to the present.

Now I shall take up Section 6; the requisition of transport and communication material.

A report from the French administration gives us statistics which are reproduced in very complete charts, which I shall not read to the Tribunal. I shall merely point out that most of the locomotives and rolling stock in good shape were removed, and that the total sum of the requisitions of transport material reaches the sum of 198,450 million francs.

I shall now deal with requisitions in the departments of Haut-Rhin, Bas-Rhin, and Moselle. From the beginning of the invasion the Germans incorporated these departments into the Reich. This question will be presented by the French Prosecution when they discuss the question of Germanization. From the point of view of economic spoliation it must be stressed that the Germans sought to derive a maximum from these three departments. If they paid in marks for a certain number of products, they made no settlement whatever for the principal products, especially coal, iron, crude oil, potash, industrial material, furniture, and agricultural machinery.

The information relating to this is given by the French administration in a chart which I shall summarize briefly and which I submit as Document Number RF-264. The value of requisitions made in the three French departments of the east—requisitions not paid for by the Germans—reaches the sum of 27,315 million francs.

To conclude the question of the departments in the east, I should like to point out to the Tribunal that my colleague, who will discuss the question of Germanization, will show how the firm, Hermann Göring Werke, in which the Defendant Göring had considerable interests, appropriated equipment from mines of the large French company called the "Petits-Fils de François de Wendel et Cie." (See Document RF-1300.)

I now come to the Section 8, concerning miscellaneous levies.

1) Spoliations in Tunisia. The Germans went into Tunisia on 10 November 1942 and were driven out by the Allied Armies in May 1943. During this period they indulged in numerous acts of spoliation.

THE PRESIDENT: Do you think that it is necessary to go into details of the seizures in this part of the country if they are of the same sort as those in other parts of the country?

M. GERTHOFFER: Mr. President, it is similar; there is only one difference, and that concerns the amount. I believe the principle cannot be contested by anyone; therefore I shall go on.

Gentlemen, I shall also pass over the question of compulsory labor. I shall conclude my summary, however, by pointing out to the Tribunal that French economy suffered enormous losses from the deportation of workers, a subject which was discussed by my colleague. We have calculated the losses in working hours and we estimate—and this will be my only remark—that French economy lost 12,550 million working hours through the deportation of workers, a figure which does not include the number of workers who were more or less forced to work for the Germans in enterprises in France.

If you will permit me, gentlemen, I shall conclude this presentation concerning France by giving you a general review of the situation; and I shall refer once more to Hemmen, the economic dictator who actually ruined my country upon the orders of his masters, the defendants. While in the first five reports submitted, despite their apparently technical nature, the author shows the assurance of the victor who can allow himself to do anything, in the last report of 15 December 1944 at Salzburg, the only one I shall refer to, Hemmen sought visibly, while giving his work a technical quality, to plead the case of Germany—that of his Nazi masters and his own case. He only succeeded, however, in bringing forth unwittingly an implacable accusation against the nefarious work with which he was entrusted. Here are some short extracts, gentlemen, of Hemmen's final report.

On Page 1 of his report, Page 2 of the French text, he implied the co-responsibility of the German leaders, and Göring particularly. He writes as follows:

"According to the directives formulated on 5 July 1940 by the Reich Marshal and Delegate of the Four Year Plan, concerning the existing legal situation, the Armistice Convention does not give us rights in the economic domain of the unoccupied parts of France, not even when loosely interpreted."

A little farther on he admits blackmail with regard to the demarcation line with these words (Page 3 of the translation):

"The Pétain Government manifested from the beginning a strong desire to re-establish rapidly the destroyed economy by means of German support and to find work for the French population in order to avoid the threat of unemployment, but above all to reunite the two French zones, separated by the demarcation line, into a unified economic and administrative territory. They were at the same time willing to bring this territory into line with German economic direction, under French management, thoroughly reorganizing it according to the German model."

Then Hemmen adds:

"In return for considerable relaxations regarding the demarcation line, the Armistice Delegation has come to an agreement with the French Government to introduce into French legislation the German law, relating to foreign currency."

Farther on, concerning pressure, on Page 4, and Page 7 of the translation, Hemmen wrote:

"Thereby the automatic rise of prices aggravated by the unchecked development of the black market was felt all the more strongly, since wages were forcibly fixed."

I pass over the passage in which Hemmen speaks of French resistance. However, I should like to point out to the Tribunal that, on Page 13—Page 29 of the translation—Hemmen tries to show through financial evaluations and most questionable arguments that the cost of the war per head was heavier for the Germans than for the French. He himself destroys with one word the whole system of defense which he had built up by writing at the end of his bold calculations that from autumn 1940 to February 1944 the cost of living increased 166 percent in France, while in Germany it increased only 7 percent. Now, gentlemen, it is, I am quite sure, through the increase in the cost of living that one measures the impoverishment of a country.

Last of all, on Page 4, and this is my last quotation from the Hemmen report, he admits the German crime in these terms:

"Through the removal, for years, of considerable quantities of merchandise of every kind without economic compensation,

a perceptible decrease in substance had resulted with a corresponding increase in monetary circulation, which had led ever more noticeably to the phenomena of inflation and especially to a devaluation of money and a lowering of the purchasing power."

These material losses, we may say, can be repaired. Through work and saving we can re-establish, in a more or less distant future, the economic situation of the country. That is true, but there is one thing which can never be repaired—the results of privations upon the physical state of the population.

If the other German crimes, such as deportations, murders, massacres, make one shudder with horror, the crime which consisted of deliberately starving whole populations is no less odious.

In the occupied countries, in France particularly, many persons died solely because of undernourishment and because of lack of heat. It was estimated that people require from 3,000 to 3,500 calories a day and heavy laborers about 4,000. From the beginning of the rationing in September 1940 only 1,800 calories per day per person were distributed. Successively the ration decreased to 1,700 calories in 1942, then to 1,500, and finally fell to 1,220 and 900 calories a day for adults and to 1,380 and 1300 for heavy laborers; old persons were given only 850 calories a day. But the true situation was still worse than the ration theoretically allotted through ration cards; in fact, frequently a certain number of coupons were not honored.

The Germans could not fail to recognize the disastrous situation as far as public health was concerned, since they themselves estimated in the course of the war of 1914-1918 that the distribution of 1,700 calories a day was a "regime of slow starvation, leading to death."

What aggravated the situation still more was the quality of the rations which were distributed. Bread was of the poorest quality; milk, when there was any, was skimmed to the point where the fat content amounted to only 3 percent. The small amount of meat given to the population was of bad quality. Fish had disappeared from the market. If we add to that an almost total lack of clothing, shoes, and fuel, and the fact that frequently neither schools nor hospitals were heated, one may easily understand what the physical condition of the population was.

Incurable sicknesses such as tuberculosis developed and will continue to extend their ravages for many years. The growth of children and adolescents is seriously impaired. The future of the race is a cause for the greatest concern. The results of economic spoliation will be felt for an indefinite period.

THE PRESIDENT: Could you tell me what evidence you have for your figures of calories?

M. GERTHOFFER: I am going to show you this at the end of my presentation. It is a report of a professor at the Medical School of Paris who has been specially commissioned by the Dean of the University to make a report on the results of undernourishment. I will quote it at the end of my statement. I am almost there.

The results of this economic spoliation will be felt for an indefinite length of time. The exhaustion is such that, despite the generous aid brought by the United Nations, the situation of the occupied countries, taken as a whole, is still alarming. In fact, the complete absence of stocks, the insufficiency of the means of production and of transport, the reduction of livestock and the economic disorganization, do not permit the allotting of sufficient rations at this time. This poverty, which strikes all occupied countries, can disappear only gradually over a long period of time, the length of which no one can yet determine.

If in certain rich agricultural regions the producers were able during the occupation to have and still do have a privileged situation from the point of view of food supply, the same is not true in the poorer regions nor in urban districts. If we consider that in France the urban population is somewhat more numerous than the rural population, we can state clearly that the great majority of the French population was subject to and still remains subject to a food regime definitely insufficient.

Professor Guy Laroche, delegated by the Dean of the Faculty of Medicine of Paris to study the consequences of undernourishment in France as a result of German requisitions, has just sent a report on this question.

I do not wish to prolong my explanation by reading the entire report. I shall ask the Tribunal's permission to quote the conclusion, which I submit as Document Number RF-264(bis). I received the whole report only a few days ago. It is submitted in its entirety, but I have not been able to have 50 copies made of it. Two copies have been made and are being submitted. Here are Dr. Laroche's conclusions:

> "We see how great the crime of rationing was, which was imposed by the Germans upon the French during the occupation period from 1940 to 1944. It is difficult to give exact figures for the number of human lives lost due to excessive rationing. We would need general statistics and these we have been unable to establish.
>
> "Nevertheless, without overestimating, we may well believe that, including patients in institutions, the loss of human

life from 1940 to 1944 reached at least 150,000 persons. We must add a great number of cases which were not fatal, of physical and mental decline often incurable, of retarded development in children, and so forth.

"We think that three conclusions can be drawn from this report, which of course is incomplete:

"1.) The German occupation authorities deliberately sacrificed the lives of patients in institutions and hospitals.

"2.) From the way everything happened it seemed as if they had wished to organize, in a rational and scientific fashion, the decline of the health of adolescents and adults.

"3.) Suckling babies and young children received a normal ration; it is probable that this privileged position is explained by the fact that the Nazi leaders hoped to spread their doctrine more easily among beings who would not have known any other conditions of life and who would, because of a planned education, have accepted their doctrine, for they knew they could not expect to convince adolescents and adults except through force."

The report is signed by Professor Guy Laroche.

This report, gentlemen, has attached to it a photograph, which you will find at the end of the document book. I beg to hand it to you. The unfortunate beings that you see in that picture are not the victims of a concentration or reprisal camp. They are simply the patients of an asylum in the outskirts of Paris who fell into this state of physical weakness as a result of undernourishment. If these men had had the diet of the asylum prior to rationing, they would have been as strong as normal people. Unfortunately for them they were reduced to the official rationing and were unable to obtain the slightest supplement.

Do not let adversaries say: "But the German people are just as badly off!"

I should reply that, in the first place, this is not true. The German did not suffer cold for four years; he was not undernourished. On the contrary, he was well fed, warmly clothed, warmly housed, with products stolen from the occupied countries, leaving only the minimum necessary for existence for the peoples of these countries.

Remember, gentlemen, the words of Göring when he said: "If famine is to reign, it will not reign in Germany."

Secondly I should say to my adversaries if they made such an objection: The Germans and their Nazi leaders wanted the war which they launched, but they had no right to starve other peoples in order to carry out their attempt at world domination. If today they are in a difficult situation, it is the result of their own behavior;

and they seem to me to have no right to take recourse to the famous sentence: "I did not want that."

I am coming to the end of my statement. If you will permit me, gentlemen, I will conclude in two minutes the whole of this presentation by reminding the Tribunal in a few words what the premeditated crime was, of which the German leaders have been accused, from the economic point of view.

The application of racial and living space theories was bound to engender an economic situation which could not be solved and force the Nazi leaders to war.

In a modern society because of the division of labor, of its concentration, and of its scientific organization, the concept of national capital takes on more and more a primary importance, whatever may be the social principles of its distribution between nationals, or its possession in all or in part by states.

Now, a national capital, public or private, is constituted by the joint effort of the labor and the savings of successive generations.

Saving, or the putting into reserve of the products of labor as a result of deprivations freely consented to, must exist in proportion to the needs of the concentration of the industrial enterprises of the country.

In Germany, a country highly industrialized, this equilibrium did not exist. In fact, the expenditures, private or public, of that country surpassed its means; saving was insufficient. The establishment of a system of obligatory savings was formulated only through the creation of new taxes and has never replaced true savings.

As a result of the war of 1914-1918, after having freed herself of the burden of reparations (and I must point out that two-thirds of the sum remained charged to France as far as this country is concerned), Germany, who had established her gold reserve in 1926, began a policy of foreign loans and spent without counting the cost. Finding it impossible to keep her agreements, she found no more creditors.

After Hitler's accession to power her policy became more definite. She isolated herself in a closed economic system, utilizing all her resources for the preparation of a war which would permit her, or at least that is what she hoped, to take through force the property of her western neighbors and then to turn against the Soviet Union in the hope of exploiting, for her profit, the immense wealth of that great country. It is the application of the theories formulated in *Mein Kampf,* which had as a corollary the enslavement and then the extermination of the populations of conquered countries.

In the course of the occupation the invaded nations were systematically pillaged and brutally enslaved; and this would have permitted Germany to obtain her war aims, that is to say, to take the patrimony of the invaded countries and to exterminate their populations gradually, if the valor of the United Nations had not delivered them. Instead of becoming enriched from the looted property, Germany had to sink it into a war which she had provoked, right up to the very moment of her collapse.

Such actions, knowingly perpetrated and executed by the German leaders contrary to international law and particularly contrary to the Hague Convention, as well as the general principles of penal law in force in all civilized nations, constitute War Crimes for which they must answer before your high jurisdiction.

Mr. President, I should like to add that the French Prosecution had intended to present a statement on the pillage of works of art in the occupied countries of western Europe. But this question has already been discussed in two briefs of our American colleagues, briefs which seem to us to establish beyond any question the responsibility of the defendants. In order not to prolong the hearing, the French Prosecution feels that it is its duty to refrain from presenting this question again; but we remain respectfully at the disposal of the Tribunal in case, in the course of the trial, they feel they need further information on this question.

The presentation of the French Prosecution is concluded. I shall give the floor to Captain Sprecher of the American Delegation, who will make a statement on the responsibility of the Defendant Fritzsche.

CAPTAIN DREXEL A. SPRECHER (Assistant Trial Counsel for the United States): May it please the Tribunal, I notice that Dr. Fritz, the defendant's attorney, is not here; and in view of the late hour, it would be agreeable if we hold it over until tomorrow.

THE PRESIDENT: It is 5 o'clock now, so we shall adjourn in any event now.

[The Tribunal adjourned until 23 January 1946 at 1000 hours.]

FORTY-FIRST DAY

Wednesday, 23 January 1946

Morning Session

CAPT. SPRECHER: May it please the Tribunal, it is my responsibility and my privilege to present today the case on the individual responsibility of the Defendant Hans Fritzsche for Crimes against Peace, War Crimes, and Crimes against Humanity as they relate directly to the Common Plan or Conspiracy.

With the permission of the Tribunal, it is planned to make this presentation in three principal divisions:

First, a short listing of the various positions held by the Defendant Fritzsche in the Nazi State.

Second, a discussion of Fritzsche's conspiratorial activities within the Propaganda Ministry from 1933 through the attack on the Soviet Union.

Third, a discussion of Fritzsche's connection, as a Nazi propagandist, to the atrocities and the ruthless occupation policy which formed a part of the Common Plan or Conspiracy.

In listing Fritzsche's positions, it is not intended at first to describe the functions of these positions. Later on, in describing some of Fritzsche's conspiratorial acts, I shall take up a discussion of some of these positions which he held.

Fritzsche's Party membership and his various positions in the propaganda apparatus of the Nazi State are shown by two affidavits by Fritzsche himself: Document Number 2976-PS, which is already in evidence as Exhibit USA-20; and Document Number 3469-PS, which I offer in evidence as Exhibit USA-721. Both of these affidavits have been put into the four working languages of this Tribunal.

Fritzsche became a member of the Nazi Party on the 1st of May 1933, and he continued to be a member until the collapse in 1945. Fritzsche began his services with the staff of the Reich Ministry for Public Enlightenment and Propaganda, hereinafter referred to as the Propaganda Ministry, on the 1st of May 1933; and he remained within the Propaganda Ministry until the Nazi downfall.

Before the Nazis seized political power in Germany and beginning in September 1932, Fritzsche was head of the Wireless News Service (Drahtloser Dienst), an agency of the Reich Government at that time under the Defendant Von Papen. After the Wireless News

Service was incorporated into the Propaganda Ministry of Dr. Goebbels in May 1933, Fritzsche continued as its head until the year 1938. Upon entering the Propaganda Ministry in May 1933, Fritzsche also became head of the news section of the Press Division of the Propaganda Ministry. He continued in this position until 1937. In the summer of 1938, Fritzsche was appointed deputy to one Alfred Ingemar Berndt, who was then head of the German Press Division.

The German Press Division, in the Indictment, is called the Home Press Division. Since "German Press Division" seems to be a more literal translation, we have called it the German Press Division throughout this presentation. It is sometimes otherwise known as the Domestic Press Division. We shall show later that this division was the major section of the Press Division of the Reich Cabinet.

Now in December 1938 Fritzsche succeeded Berndt as the head of the German Press Division. Between 1938 and November 1942 Fritzsche was promoted three times. He advanced in title from Superior Government Counsel to Ministerial Counsel, then to Ministerialdirigent, and finally to Ministerialdirektor.

In November 1942 Fritzsche was relieved of his position as head of the German Press Division by Dr. Goebbels and accepted from Dr. Goebbels a newly created position in the Propaganda Ministry, that of Plenipotentiary for the Political Organization of the Greater German Radio. At the same time he also became head of the Radio Division of the Propaganda Ministry. He held both these positions in radio until the Nazi downfall.

There are two allegations of the Indictment concerning Fritzsche's positions for which we are unable to offer proof. These allegations appear at Page 34 of the English translation.

The first unsupported allegation states that Fritzsche was "Editor-in-Chief of the official German News Agency (Deutsches Nachrichtenbüro)." The second unsupported allegation states that Fritzsche was "head of the Radio Division of the Propaganda Department of the Nazi Party." Fritzsche denies having held either of these positions, in his affidavit, and therefore these two allegations must fall for want of proof.

Before discussing the documentation of the case I wish, in passing, to state my appreciation for the assistance of Mr. Norbert Halpern, Mr. Alfred Booth, and Lieutenant Niebergall, who sits at my right, for their assistance in research, analysis, and translation.

The Tribunal will note the relative shortness of this document book. It has been marked as Document Book MM. It contains only 32 pages, which have been numbered consecutively in red pencil for your convenience. The shortness of the documentation on this particular case is possible only because of a long affidavit made by

the Defendant Fritzsche, which was signed by him on the 7th of January 1946.

It seems appropriate to comment on this significant document before proceeding. It is before Your Honors as Document Number 3469-PS, beginning at document book Page 19. As I said, it has been translated into the four working languages of this proceeding.

This affidavit contains materials which have been extracted from interrogations of Fritzsche and many materials which Fritzsche volunteered to give himself, upon request made by me, through his Defense Counsel, Dr. Fritz. Some of the portions of the final affidavit were originally typed or handwritten by the Defendant Fritzsche himself during this Trial or during the holiday recess. All these materials were finally incorporated into one single affidavit.

This affidavit contains Fritzsche's account of the events which led to his entering the Propaganda Ministry and his account of his later connections with that Ministry. Before Fritzsche made some of the statements in the affidavit concerning the role of propaganda in relation to important foreign political events, he was shown illustrative headlines and articles from the German press at that time, so that he could refresh his recollection and make more accurate statements.

It is believed that the Tribunal will desire to consider many portions of this affidavit independent of this presentation, along with the proof on the conspirators' use of propaganda as a principal weapon in the conspiracy. Some of this proof, you will recall, was submitted by Major Wallis in the first days of this Trial in connection with Brief E, entitled "Propaganda, Censorship, and Supervision of the Cultural Activities," and the corresponding document book, to which I call the Tribunal's attention.

In the Fritzsche affidavit there are a number of statements which I would say were in the nature of self-serving declarations. With respect to these, the Prosecution requests only that the Tribunal consider them in the light of the whole conspiracy and the indisputable facts which appear throughout the Record. The Prosecution did not feel, either as a matter of expediency or of fairness, that it should request Fritzsche, through his defense lawyer, Dr. Fritz, to remove some of these self-serving declarations at this time and submit them later in connection with his defense.

Since I shall refer to this affidavit at numerous times throughout the presentation, perhaps the members of the Tribunal will wish to place a special marker in their document book.

By referring to Paragraphs 4 and 5 of the affidavit, the Tribunal will note that Fritzsche first became a successful journalist in the service of the Hugenberg Press, the most important chain of newspaper enterprises in pre-Nazi Germany. The Hugenberg concern

owned papers of its own, but primarily it was important because it served newspapers which principally supported the so-called "national" parties of the Reich, including the NSDAP.

In Paragraph 5 of his affidavit Fritzsche relates that in September 1932, when the Defendant Von Papen was Reich Chancellor, he was made head of the Wireless News Service, replacing someone who was politically unbearable to the Papen regime. The Wireless News Service, I might say, was a government agency for spreading news by radio.

Fritzsche began making radio broadcasts at about this time with very great success, a success which Goebbels recognized and was later to exploit very efficiently on behalf of these Nazi conspirators.

The Nazis seized power on the 30th of January 1933. From Paragraph 10 of the Fritzsche affidavit we find that that very evening, the 30th of January 1933, two emissaries from Goebbels visited Fritzsche. One of them was Dressler-Andress, head of the Radio Division of the NSDAP; the other was an assistant of Dressler-Andress named Sadila-Mantau. These two emissaries notified Fritzsche that although Goebbels was angry with Fritzsche for writing a critical article concerning Hitler, still Goebbels recognized Fritzsche's public success on the radio since the previous fall. They stated further that Goebbels desired to retain Fritzsche as head of the Wireless News Service on certain conditions: (1) That Fritzsche discharge all Jews; (2) that he discharge all other personnel who would not join the NSDAP; and (3) that he employ with the Wireless News Service the second Goebbels' emissary, Sadila-Mantau.

Fritzsche refused all these conditions except the hiring of Sadila-Mantau. This was one of the first ostensible compromises after the seizure of power which Fritzsche made on his road to the Nazi camp.

Fritzsche continued to make radio broadcasts during this period in which he supported the National Socialist coalition government then still existing.

In early 1933 SA troops several times called at the Wireless News Service and Fritzsche prevented them, with some difficulty, from making news broadcasts.

In April 1933 Goebbels called the young Fritzsche to him for a personal audience. At Paragraph 9 of his affidavit, Document Number 3469-PS, Fritzsche has volunteered the following concerning his prior relationships with Dr. Goebbels:

> "I was acquainted with Dr. Goebbels since 1928. Apparently he had taken a liking to me, besides the fact that in my press activities I had always treated the National Socialists in a friendly way until 1931.

"Already before 1933 Goebbels, who was the editor of *The Attack (Der Angriff)*, Nazi newspaper, had frequently made flattering remarks about the form and content of my writings, which I did as contributor of many 'national' newspapers and periodicals, among which were also some of more reactionary character."

At the first Goebbels-Fritzsche discussion in early April 1933, Goebbels informed Fritzsche of his decision to place the Wireless News Service within the Propaganda Ministry as of 1 May 1933. He suggested that Fritzsche make certain rearrangements in the personnel which would remove Jews and other persons who did not support the NSDAP. Fritzsche debated with Goebbels concerning some of these steps. It must be said that during this period Fritzsche made some effort to place Jews in other jobs.

In a second conference with Goebbels, shortly thereafter, Fritzsche informed Goebbels about the steps he had taken in reorganizing the Wireless News Service. Goebbels thereupon informed Fritzsche that he would like to have him reorganize and modernize the entire news services of Germany within the control of the Propaganda Ministry.

It will be recalled by the Tribunal that on the 17th of March 1933, approximately two months before this time, the Propaganda Ministry had been formed by decree, 1933 *Reichsgesetzblatt*, Part I, Page 104, our Document Number 2029-PS.

Fritzsche was intrigued by the Goebbels offer. He proceeded to conclude the Goebbels-inspired reorganization of the Wireless News Service; and on the 1st of May 1933, together with the remaining members of his staff, he joined the Propaganda Ministry. On this same day he joined the NSDAP and took the customary oath of unconditional loyalty to the Führer. From this time on, whatever reservations Fritzsche may have had, either then or later, to the course of events under the Nazis, Fritzsche was completely within the Nazi camp. For the next 13 years he assisted in creating and in using the principal propaganda devices which the conspirators employed with such telling effect in each of the principal phases of this conspiracy.

From 1933 until 1942 Fritzsche held one or more positions within the German Press Division. For 4 years indeed he headed this Division, during those crucial years 1938 to 1942. That covers the period when the Nazis undertook actual military invasions of neighboring countries. It is, therefore, believed appropriate to spell out in some detail, before this Tribunal, the functions of this German Press Division. These functions will show the important and unique position of the German Press Division as an instrument of the Nazi conspirators not only in dominating the minds and the psychology

of Germans through the German Press Division and through the radio but also as an instrument of foreign policy and psychological warfare against other nations.

The already broad jurisdiction of the Propaganda Ministry was extended by a Hitler decree of the 30th of June 1933, found in 1933 *Reichsgesetzblatt,* Part I, Page 449. From that decree I wish to quote only one sentence. It is found in Document 2030-PS, your document book Page 3:

> "The Reich Minister of Public Enlightenment and Propaganda is competent for all problems concerning the mental moulding of the nation, the propaganda for the State, for culture and economy, and the enlightenment at home and abroad about these questions. Furthermore, he is in charge of the administration of all institutions serving these purposes."

It is important to underline the stated propaganda objective of "enlightenment at home and abroad."

For a clear exposition of the general functions of the German Press Division of the Propaganda Ministry, the Tribunal is referred to Document Number 2434-PS, document book Page 5. It is offered in evidence as Exhibit USA-722. This document is an appropriate excerpt from a book by Georg Wilhelm Müller, a Ministerial Director in the Propaganda Ministry, of which the Tribunal is asked to take judicial notice.

Fritzsche's affidavit, Paragraphs 14, 15, and 16, beginning at Page 22 of your document book, contains an exposition of the functions of the German Press Division, a description which confirms and adds to the exposition in Müller's book. Concerning the German Press Division, Fritzsche's affidavit states:

> "During the whole period from 1933 to 1945 it was the task of the German Press Division to supervise the entire domestic press and to provide it with directives by which this division became an efficient instrument in the hands of the German State leadership. More than 2,300 German daily newspapers were subject to control.
>
> "The aim of this supervision and control, in the first years following 1933, was to change basically the conditions existing in the press before the seizure of power. That meant the coordination into the New Order of those newspapers and periodicals which had been serving capitalistic individual interests or party politics. While the administrative functions wherever possible were exercised by the professional associations and the Reich Press Chamber, the political direction of the German press was entrusted to the German Press Division.

"The head of the German Press Division held daily press conferences in the Ministry for the representatives of all German newspapers. Thereby all instructions were given to the representatives of the press. These instructions were transmitted daily, almost without exception and mostly by telephone from headquarters by Dr. Otto Dietrich, Reich Press Chief, in a set text, the so-called 'Daily Parole of the Reich Press Chief.' Before the formulation of this text the head of the German Press Division submitted to him, Dietrich, the foremost press wishes expressed by Dr. Goebbels and by other ministries. This was the case especially with the wishes of the Foreign Office about which Dr. Dietrich always wanted to make decisions personally or through his representatives at headquarters, Helmut Sündermann and chief editor Lorenz.

"The actual interpretation of the direction in detail was thus left entirely to the individual work of the various editors. Therefore, it is by no means true that the newspapers and periodicals were a monopoly of the German Press Division or that essays and leading articles had to be submitted by them to the Ministry. Even in war times this happened in exceptional cases only. The less important newspapers and periodicals which were not represented at the daily press conferences received their information in a different way—by providing them either with ready-made articles and reports, or by confidential printed instruction. The publications of all other official agencies were directed and coordinated likewise by the German Press Division.

"To enable the periodicals to get acquainted with the daily political problems of newspapers and to discuss these problems in greater detail, the *Informationskorrespondenz* was issued especially for periodicals. Later on it was taken over by the Periodical Press Division. The German Press Division likewise was in charge of pictorial reporting insofar as it directed the employment of pictorial reporters at important events.

"In this way, and conditioned upon the prevailing political situation, the entire German press was, by the German Press Division, made a permanent instrument of the Propaganda Ministry. Thereby, the entire German Press was subordinate to the political aims of the government. This was exemplified by the timely limitation and the emphatic presentation of such press polemics as appeared to be most useful, as shown for instance in the following themes: The class struggle of the system era; the Leadership Principle and the authoritarian state; the party and interest politics of the system era; the

Jewish problem; the conspiracy of world-Jewry; the Bolshevistic danger; the plutocratic democracy abroad; the race problem generally; the church; the economic misery abroad; the foreign policy; the living space (Lebensraum)."

This description of Fritzsche establishes clearly and in his own words that the German Press Division was the instrument for subordinating the entire German press to the political aims of the government.

We now pass to Fritzsche's first activities on behalf of the conspirators within the German Press Division. It is appropriate to read again from his affidavit, Paragraph 17, your document book Page 23. Fritzsche begins by describing a conference with Goebbels in late April or early May 1933:

"At this time Dr. Goebbels suggested to me, in my capacity as the expert on news technique, the establishment and direction of a section 'News' within the Press Division of his Ministry, in order to thoroughly organize and modernize the German news agencies. In carrying out the task assigned to me by Dr. Goebbels my field covered the entire news service for the German press and the radio in accordance with the directions given by the Propaganda Ministry, excepting at first the DNB"—German News Agency.

An obvious reason why the DNB was excepted from Fritzsche's field at this time is that the DNB did not come into existence until the year 1934 as we shall later see. Later on, in Paragraph 17 of the Fritzsche affidavit, the Tribunal will note the tremendous funds put at the disposal of Fritzsche in building up the Nazi news services. Altogether the German news agencies received a 10-fold increase in their budget from the Reich, an increase from 400,000 to 4 million marks. Fritzsche himself selected and employed the chief editor for the Transocean News Agency and also for the Europa Press. Fritzsche states that some of the "directions of the Propaganda Ministry which I had to follow were," and then skipping, "... increase of German news copy abroad at any cost," and then skipping again, "... spreading of favorable news on the internal construction and peaceful intentions of the National Socialist system."

About the summer of 1934 the Defendant Funk, then Reich Press Chief, achieved the fusion of the two most important domestic news agencies, the Wolff Telegraph Agency and the Telegraph Union, and thus formed the official German news agency, ordinarily known as DNB. It has already been pointed out to the Tribunal that the Indictment is in error in alleging that Fritzsche himself was Editor-in-Chief of the DNB. Fritzsche held no position whatsoever with the DNB at any time. However, as head of the news section of the German Press Division, Fritzsche's duties gave him

official jurisdiction over the DNB, which was the official domestic news agency of the German Reich after 1934. In the last part of Paragraph 17 of this affidavit, Fritzsche states that he co-ordinated the work of the various foreign news agencies "at home and within European and overseas foreign countries with one another and in relationship to DNB."

The Wireless News Service was headed by Fritzsche from 1932 to 1937. After January 1933, the Wireless News Service was the official instrument of the Nazi Government in spreading news over the radio. During the same time that Fritzsche headed the Wireless News Service, he personally made radio broadcasts to the German people. These broadcasts were naturally subject to the controls of the Propaganda Ministry and reflected its purposes. The influence of Fritzsche's broadcasts upon the German people, during this period of consolidation of control by the Nazi conspirators, is all the more important since Fritzsche was concurrently head of the Wireless News Services, which controlled for the government the spreading of all news by radio.

It is by now well known to the world that the Nazi conspirators attempted to be, and often were, very adept in psychological warfare. Before each major aggression, with some few exceptions based on the strategy of expediency, they initiated a press campaign calculated to weaken their victims and to prepare the German people psychologically for the impending Nazi madness. They used the press after their earlier conquests as a means for further influencing foreign politics and in maneuvering for the next following aggression.

By the time of the occupation of the Sudetenland on the 1st of October 1938, Fritzsche had become deputy head of the entire German Press Division. Fritzsche states that the role of German propaganda before the Munich Agreement on the Sudetenland was directed by his immediate chief, Berndt, then head of the German Press Division. In Paragraph 27 of the Fritzsche affidavit, Page 26 of your document book, Fritzsche describes this propaganda which was directed by Berndt. Speaking of Berndt, Fritzsche states:

> "He exaggerated minor events very strongly, sometimes used old episodes as new—and there even came complaints from the Sudetenland itself that some of the news reported by the German press was untrustworthy. As a matter of fact, after the great foreign political success at Munich in September 1938, there arose a noticeable crisis in the confidence of the German people in the trustworthiness of its press. This was one reason for the recalling of Berndt, in December 1938 after the conclusion of the Sudeten action, and for my appointment as head of the German Press Division. Beyond

this, Berndt, by his admittedly successful but still primitive military-like orders to the German press, had lost the confidence of the German editors."

Now, what happened at this time? Fritzsche was made head of the German Press Division in place of Berndt. Between December 1938 and 1942, Fritzsche, as head of the German Press Division, personally gave to the representatives of the principal German newspapers the "daily parole of the Reich Press Chief." During this history-making period he was the principal conspirator directly concerned with the manipulations of the press. The first important foreign aggression after Fritzsche became head of the German Press Division was the incorporation of Bohemia and Moravia. In Paragraph 28 of the affidavit, your document book, Page 26, Fritzsche gives his account of the propaganda action surrounding the incorporation of Bohemia and Moravia as follows:

"The action for the incorporation of Bohemia and Moravia, which took place on 15 March 1939, while I was head of the German Press Division, was not prepared for such a long period as the Sudeten action. According to my memory it was in February that I received the order from the Reich Press Chief, Dr. Dietrich, and repeated requests by the envoy Paul Schmidt of the Foreign Office, to draw the attention of the press to the aspirations of Slovakia for independence and to the continued anti-German coalition politics of the Prague Government. I did this. The daily paroles of the Reich Press Chief and the press conference minutes at that time show the wording of the pertinent instructions. The following were the typical headlines of leading newspapers and the conspicuous leading articles of the German daily press at that time: (1) The terrorizing of Germans within the Czech territory by arrest, shooting at Germans by the state police, destruction and damaging of German homes by Czech mobs; (2) the concentration of Czech forces on the Sudeten frontier; (3) the kidnapping, deportation, and persecution of Slovakian minorities by the Czechs, (4) the Czechs must get out of Slovakia; (5) secret meetings of Red functionaries in Prague.

"Some few days before the visit of Hacha, I received the instruction to publish in the press very conspicuously the incoming news on the unrest in Czechoslovakia. Such information I received only partly from the German News Agency DNB but mostly from the Press Division of the Foreign Office and some from big newspapers with their own news services. Among the newspapers offering information was, above all, the *Völkischer Beobachter* which, as I learned later on, received its information from the SS Standartenführer

Gunter D'Alquen, who was at that time at Bratislava. I had forbidden all news agencies and newspapers to issue news on unrest in Czechoslovakia until I had seen it. I wanted to avoid a repetition of the very annoying accompaniments of the Sudeten action propaganda, and I did not want to suffer a loss of prestige caused by untrue news. Thus, all news checked by me was admittedly full of tendency but not invented. Following the visit of Hacha in Berlin and after the beginning of the invasion of the German Army, which took place on 15 March 1939, the German press had enough material for describing these events. Historically and politically the event was justified with the indication that the declaration of independence of Slovakia had required an interference and that Hacha with his signature had avoided a war and had reinstated a thousand-year-old union between Bohemia and the Reich."

The propaganda campaign of the press preceding the invasion of Poland on the 1st of September 1939—and thus the propaganda action just preceding the precipitation of World War II—bears again the handiwork of Fritzsche and his German Press Division. In Paragraph 30 of Fritzsche's affidavit, document book Page 27, Fritzsche speaks of the conspirators' treatment of this episode as follows:

"Very complicated and varying was the press and propagandistic treatment in the case of Poland. Under the influence of the German-Polish Agreement, the German press was for many years forbidden, on principle, to publish anything on the situation of the German minority in Poland. This was still the case when in the spring of 1939 the German press was asked to become somewhat more active as to the problem of Danzig. Also when the first Polish-English conversations took place and the German press was advised to use a sharper tone against Poland, the question of the German minority still remained in the background. At first during the summer this problem was picked up again and created immediately a noticeable sharpening of the situation. Each larger German newspaper had for some time quite an abundance of material on complaints and grievances of the Germans in Poland without the editors having had a chance to use this material. The German papers, from the time of the minority discussions at Geneva, still had correspondents or free collaborators in Katowice, Bydgoszcz, Posen, Toruń, *et cetera*. Their material now came forth with a bound. Concerning this, the leading German newspapers brought out in accordance with directions given for the so-called daily paroles the following articles, in

conspicuous setting: (1) Cruelty and terror against racial Germans and the extermination of racial Germans in Poland; (2) Construction of field works by thousands of racial German men and women in Poland; (3) Poland, land of servitude and disorder; the desertion of Polish soldiers; the increased inflation in Poland; (4) provocation of frontier clashes upon direction of the Polish Government; the Polish aspirations for conquest; (5) persecution of Czechs and Ukrainians by Poland. The Polish press retorted hotly."

The press campaign preceding the invasion of Yugoslavia followed the conventional pattern. You will find the customary defamations, the lies, the incitement and the threats, and the usual attempt to divide and to weaken the victim. Paragraph 32 of the Fritzsche affidavit, your document book Page 28, outlines this propaganda action as follows:

"During the period immediately preceding the invasion of Yugoslavia, on the 6th of April 1941, the German press emphasized by headlines and leading articles the following boldly made up announcements: (1) The systematic persecution of racial Germans in Yugoslavia including the burning down of German villages by Serbian soldiers and the confining of racial Germans in concentration camps, as well as the physical mishandling of German-speaking persons; (2) the arming of Serbian bandits by the Serbian Government; (3) the indictment of Yugoslavia by the plutocrats against Germany; (4) growing anti-Serbian feeling in Croatia; (5) the chaotic situation of the economic and social conditions in Yugoslavia."

Since Germany had a non-aggression pact with the Soviet Union and because these conspirators wanted the advantage of surprise, there was no special propaganda campaign immediately preceding the attack on the U.S.S.R. Fritzsche in Paragraph 33 of his affidavit discussed the propaganda line, however, for the justification of this aggressive war to the German people:

"During the night from the 21st to the 22d of June 1941, Ribbentrop called me in at about 5 o'clock in the morning for a conference in the Foreign Office at which representatives of the domestic and foreign press were present. Ribbentrop informed us that the war against the Soviet Union would start that same day and asked the German press to present the war against the Soviet Union as a preventive war for the defense of the fatherland, a war which was forced upon us by the imminent danger of an attack of the Soviet Union against Germany. The claim that this was a preventive war was later repeated by the newspapers which received their instructions from me during the usual daily parole of the

Reich Press Chief. I myself have also given this presentation of the cause of the war in my regular broadcasts."

Fritzsche, throughout his affidavit, constantly refers to his technical and expert assistance to the colossal apparatus of the Propaganda Ministry. In 1939 he apparently became dissatisfied with the efficiency of the existing facilities of the German Press Division in furnishing grist for the propaganda mill and for its intrigues. He established a new instrument for improving the effectiveness of Nazi propaganda. In Paragraph 19 of his affidavit, Page 24 of your document book, Fritzsche describes this new propaganda instrument as follows:

"About the summer of 1939 I established within the German Press Division a section called 'Speed Service.'

And then skipping and quoting again:

"... at the start it had the task of checking the correctness of news from foreign countries. Later on, about the fall of 1939, this section also worked on the compilation of material which was put at the disposal of the entire German press: For instance, dates from the British Colonial policy, political statements of the British Prime Minister in former times, descriptions of social distress in hostile countries, *et cetera*. Almost all German newspapers used such material as a basis for their polemics, whereby close concentration in the fighting front of the German press was gained. The title 'Speed Service' was chosen because materials for current comments were supplied with particular speed."

Throughout this entire period preceding and including the launching of aggressive war, Fritzsche made regular radio broadcasts to the German people under the following titles: "Political Newspaper Review," "Political and Radio Show," and later "Hans Fritzsche Speaks." His broadcasts naturally reflected the polemics and the control of his Ministry and thus of the Common Plan or Conspiracy.

We of the Prosecution contend that Fritzsche, one of the most eminent of Goebbels' propaganda team, helped substantially to bathe the world in the blood bath of aggressive war.

With the Tribunal's consent I will now pass to proof bearing on Fritzsche's incitement of atrocities and his encouragement of a ruthless occupation policy. The results of propaganda as a weapon of the Nazi conspirators reach into every aspect of this conspiracy, including the abnormal and inhuman conduct involved in the atrocities and the ruthless exploitation of occupied countries. Most of the ordinary members of the German nation would never have participated in or tolerated the atrocities committed throughout

Europe if they had not been conditioned and goaded to barbarous convictions and misconceptions by the constant grinding of the Nazi propaganda machine. Indeed, the propagandists who lent themselves to this evil mission of instigation and incitement are more guilty than the credulous and callous minions who headed the firing squads or operated the gas chambers, of which we have heard so much in this proceeding. For the very credulity and callousness of those minions was in large part due to the constant and evil propaganda of Fritzsche and his official associates.

With respect to Jews, the Department of Propaganda within the Propaganda Ministry had a special branch for the "Enlightenment of the German people and of the world as to the Jewish question, fighting with propagandistic weapons against enemies of the State and hostile ideologies." This quotation is taken from a book written in 1940 by Ministerial Director Müller, entitled *The Propaganda Ministry.* It is found in Document Number 2434(a)-PS, your document book Page 10, offered in evidence as Exhibit USA-722. It is another excerpt from Ministerial Director Müller's book and I merely ask that you take judicial notice of it for that one sentence that I have read.

Fritzsche took a particularly active part in this "enlightenment" concerning the Jewish question in his radio broadcasts. These broadcasts literally teemed with provocative libels against Jews, the only logical result of which was to inflame Germany to further atrocities against the helpless Jews who came within its physical power. Document Number 3064-PS contains a number of complete broadcasts by Fritzsche which were monitored by the British Broadcasting Corporation and translated by BBC officials. For the convenience of the Tribunal, I have had those excerpts upon which the Prosecution relies to show illustrative types of Fritzsche's broadcasts mimeographed and made into one document, which I offer in evidence as Exhibit USA-723. Even the Defendant Streicher, the master Jew-baiter of all time, could scarcely outdo Fritzsche in some of his slanders against the Jews. All the excerpts in Document Number 3064-PS are from speeches by Fritzsche given on the radio between 1941 and 1945, which we have already proven was a period of intensified anti-Jewish measures. With the permission of the Tribunal, I would like to read some of these excerpts.

Page 14 of our document book, Item 1, from a broadcast of 18 December 1941—it is found on Page 2122 of the translations from BBC:

> "The fate of Jewry in Europe has turned out to be as unpleasant as the Führer predicted it would be in the event of a European war. After the extension of the war instigated by Jews, this fate may also spread to the New World, for it

can hardly be assumed that the nations of this New World will pardon the Jews for the misery of which the nations of the Old World did not absolve them."

From a radio broadcast of 18 March 1941, found at Page 2032 of the BBC translations:

"But the crown of all wrongly-applied Rooseveltian logic is the sentence: 'There never was a race and there never will be a race which can serve the rest of mankind as a master.' Here, too, we can only applaud Mr. Roosevelt. It is precisely because there exists no race which can be the master of the rest of mankind, that we Germans have taken the liberty to break the domination of Jewry and of its capital in Germany, of Jewry which believed it had inherited the crown of secret world domination."

In passing, I would merely like to note that it seems to us that that is not only applause for past acts concerning persecution of Jews but an announcement that more is coming and an encouragement of what was coming.

I would like to read another excerpt from the 9th of October 1941 broadcast, translated at Page 2101 of the BBC translation:

"We know very well that these German victories, unparalleled in history, have not yet stopped the source of hatred which for a long time has fed the warmongers and from which this war originated. The international Jewish-Democratic-Bolshevistic campaign of incitement against Germany still finds cover in this or that fox's lair or rat hole. We have seen only too frequently how the defeats suffered by the warmongers only doubled their senseless and impotent fury."

Another broadcast of the 8th January 1944—Your Honors, I have tried to pick out illustrative broadcasts from different periods here:

"It is revealed clearly once more that not a new system of government, not a young nationalism, and not a new and well-applied socialism brought about this war. The guilty ones are exclusively the Jews and the plutocrats. If discussion on the post-war problems brings this to light so clearly, we welcome it as a contribution for later discussions and also as a contribution to the fight we are waging now, for we refuse to believe that world history will entrust its future development to those powers which have brought about this war. This clique of Jews and plutocrats have invested their money in armaments and they had to see to it that they would get their interests and sinking funds; hence they unleashed this war."

Concerning Jews, I had one last quotation from the year 1945. It is from a broadcast of the 13th of January 1945, found on Pages 2258 and 2259 of the BBC translations:

> "If Jewry provided a link between such divergent elements as plutocracy and Bolshevism and if Jewry was first able to work successfully in the democratic countries in preparing this war against Germany, it has by now placed itself unreservedly on the side of Bolshevism which, with its entirely mistaken slogans of racial freedom against racial hatred, has created the very conditions the Jewish race requires in its struggle for domination over other races."

And then skipping a few lines in that quotation:

> "Not the last result of German resistance on all the fronts, so unexpected to the enemy, is the fruition of a development which began in the pre-war years, that is, the process of subordinating British policy to far-reaching Jewish points of view. This development started long before this when Jewish emigrants from Germany commenced their warmongering against us from British and American soil."

And then skipping several sentences and going to the last sentence on that page.

> "This whole attempt, aiming at the establishment of Jewish world domination, was obviously made at a time when the national-racial consciousness had been too far awakened to promise such an aim success."

Your Honors, we suggest that that is an invitation to further persecution of the Jews and, indeed, to their elimination.

Fritzsche also incited and encouraged ruthless measures against the peoples of the U.S.S.R. In his regular broadcasts Fritzsche's incitements against the peoples of the U.S.S.R. were often linked to, and were certainly as inflammatory as, his slanders against the Jews. If these slanders were not so tragic in their relation to the murder of millions of people, they would be comical, indeed ludicrous. It is ironic that the propaganda libels against the peoples of the U.S.S.R. concerning atrocities actually described some of the many atrocities committed by the German invaders, as we now well know. The following quotations are again taken from the BBC intercepted broadcasts and their translations, beginning shortly after the invasion of the U.S.S.R. in June 1941. The first one is taken again from Page 16 of our document book. I will read only the last half of Item 7, beginning with the third paragraph:

> "As can be sufficiently seen by letters reaching us from the front, from P.K. reporters"—and may I interrupt my quotation there to say that "P.K." stands for "Propaganda Kompanie," propaganda companies which were attached to the

German Army wherever it went—"P.K. reporters and soldiers on leave, in this struggle in the East not one political system is pitted against another, not one philosophy is fighting another, but culture, civilization, and human dignity have stood up against the diabolical principle of a subhuman world."

And then another quote in the next paragraph:

"It was only the Führer's decision to strike in time that saved our homeland from the fate of being overrun by those subhuman creatures, and our men, women, and children from the unspeakable horror of becoming their prey."

In the next broadcast I want to quote from, 10th of July 1941, in the first paragraph Fritzsche speaks of the inhuman deeds committed in areas controlled by the Soviet Union, and he states that one, upon seeing the evidence of those deeds committed, comes—and here I quote:

"... finally to make the holy resolve to lend one's assistance in the final destruction of those who are capable of such dastardly acts."

And then quoting again, the last paragraph:

"The Bolshevist agitators made no effort to deny that in towns, thousands, and in the villages, hundreds of corpses of men, women, and children have been found, who had been either killed or tortured to death. In spite of this Bolshevik agitators assert that this was not done by Soviet commissars but by German soldiers. But we know our German soldiers. No German women, fathers, or mothers require proofs that their husbands or their sons cannot have committed such atrocious acts."

Evidence already in the Record, or shortly to be offered in this case by our Soviet colleagues, will prove that representatives of these Nazi conspirators did not hesitate to exterminate Soviet soldiers and civilians by scientific mass methods. These inciting remarks by Fritzsche made him an accomplice in these crimes because his labeling of the Soviet peoples as members of a "subhuman world" seeking to "exterminate" the German people and similar desperate talk helped, by these propaganda diatribes, to fashion the psychological atmosphere of utter and complete unreason and the hatred which instigated and made possible these atrocities in the East.

Although we cannot say that Fritzsche directed that 10,000 or 100,000 persons be exterminated, it is enough to pause on this question: Without these incitements of Fritzsche, how much harder it

would have been for these conspirators to have effected the conditions which made possible the extermination of millions of people in the East.

THE PRESIDENT: Would that be a convenient time to break off?

[A recess was taken.]

CAPT. SPRECHER: Fritzsche encouraged, affirmed, and glorified the policy of the Nazi conspirators in ruthlessly exploiting the occupied countries. Again I read an excerpt from his radio broadcast of the 9th of October 1941, found at Pages 2102 and 2103 of the BBC translation. I would like to cut it down, but it is one of those long German sentences that just cannot be broken down:

> "Today we can only say: Blitzkrieg or not, this German thunderstorm has cleansed the atmosphere of Europe. Certainly it is quite true that the dangers threatening us were eliminated one after the other with lightning speed but in these lightning blows which shattered England's allies on the continent, we saw not a proof of the weakness, but a proof of the strength and superiority of the Führer's gift as a statesman and military leader; a proof of the German peoples' might; we saw the proof that no opponent can rival the courage, discipline, and readiness for sacrifice displayed by the German soldier, and we are particularly grateful for these lightning, incomparable victories, because—as the Führer emphasized last Friday—they give us the possibility of embarking on the organization of Europe and on the lifting of the treasures"—I would like to repeat that—"lifting of the treasures of this old continent, already now in the middle of war, without its being necessary for millions and millions of German soldiers to be on guard, fighting day and night along this or that threatened frontier; and the possibilities of this continent are so rich that they suffice to supply all needs in peace or war."

Concerning the exploitation of foreign countries, Fritzsche states himself, at Paragraph 39 of his affidavit:

> "The utilization of the productive capacity of the occupied countries for the strengthening of the German war potential, I have openly and with praise pointed out, all the more so as the competent authorities put at my disposal much material, especially on the voluntary placement of manpower."

Fritzsche was a credulous propagandist indeed if he gloriously praised the exploitation policy of the German Reich, chiefly or especially because the competent authorities gave him a sales talk on the voluntary placement of manpower.

I come now to Fritzsche as the high commander of the entire German radio system. Fritzsche continued as the head of the German Press Division until after the conspirators had begun the last of their aggressions. In November 1942, Goebbels created a new position, that of Plenipotentiary for the Political Organization of the Greater German Radio, a position which Fritzsche was the first and the last to hold. In Paragraph 36, Document Number 3469-PS, the Fritzsche affidavit, Fritzsche narrates how the entire German radio and television system was organized under his supervision. That is at Page 29 of your document book. He states:

"My office practically represented the high command of German radio."

As special Plenipotentiary for the Political Organization of the Greater German Radio, Fritzsche issued orders to all the Reich propaganda offices by teletype. These were used first in conforming the entire radio apparatus of Germany to the desires of the conspirators.

Goebbels customarily held an 11 o'clock conference with his closest collaborators within the Propaganda Ministry. When both Goebbels and his undersecretary, Dr. Naumann, were absent, Goebbels, after 1943, entrusted Fritzsche with the holding of this 11 o'clock press conference.

In Document Number 3255-PS the Court will find Goebbels' praise of Fritzsche's broadcasts. This praise was given in Goebbels' introduction to a book by Fritzsche called, *War to the War Mongers.* I would like to offer the quotation in evidence as Exhibit Number USA-724, from the *Rundfunk Archiv,* at Page 18 of Your Honors' document book. This is Goebbels speaking:

"Nobody knows better than I how much work is involved in those broadcasts, how many times they were dictated within the last minutes to find some minutes later a willing ear by the whole nation."

So we have it from Goebbels himself that the entire German nation was prepared to lend willing ears to Fritzsche, after he had made his reputation on the radio.

The rumor passed that Fritzsche was "His Master's Voice" (Die Stimme seines Herrn). This is certainly borne out by Fritzsche's functions. When Fritzsche spoke on the radio it was indeed plain to the German people that they were listening to the high command of the conspirators in this field.

Fritzsche is not being presented by the Prosecution as the type of conspirator who signed decrees or as the type of conspirator who sat in the inner councils planning all of the over-all grand strategy of these conspirators. The function of propaganda is, for the most

part, apart from the field of such planning. The function of a propaganda agency is somewhat more analogous to an advertising agency or public relations department, the job of which is to sell the product and to win the market for the enterprise in question. Here the enterprise, we submit, was the Nazi conspiracy. In a conspiracy to commit fraud, the gifted salesman of the conspiratorial group is quite as essential and quite as culpable as the master planners, even though he may not have contributed substantially to the formulation of all the basic strategy, but rather contributed to the artful execution of this strategy.

In this case the Prosecution most emphatically contends that propaganda was a weapon of tremendous importance to this conspiracy. We further contend that the leading propagandists were major accomplices in this conspiracy, and further, that Fritzsche was a major propagandist.

When Fritzsche entered the Propaganda Ministry, the most fabulous "lie factory" of all time, and thus attached himself to this conspiracy, he did this with a more open mind than most of these conspirators who had committed themselves at an earlier date, before the seizure of power. He was in a particularly strategic position to observe the frauds committed upon the German people and upon the world by these conspirators.

The Tribunal will recall that in 1933, before Fritzsche took his party oath of unconditional obedience and subservience to the Führer and thus abdicated his moral responsibility to these conspirators, he had observed at first hand the operations of the storm troopers and the Nazi race pattern in action. When, notwithstanding this, Fritzsche undertook to bring the German news agencies in their entirety within fascist control, he learned from the inside, from Goebbels' own lips, much of the cynical intrigue and many of the bold lies against opposition groups within and without Germany. He observed, for example, the opposition journalists, a profession to which he had previously been attached, being forced out of existence, crushed to the ground, either absorbed or eliminated. He continued to support the conspiracy. He learned from day to day the art of intrigue and quackery in the process of perverting the German nation, and he grew in prestige and influence as he practiced this art.

The Tribunal will also recall that Fritzsche had said that his predecessor Berndt fell from the leadership of the German Press Division partly because he overplayed his hand by the successful but blunt and overdone manipulation of the Sudetenland propaganda. Fritzsche stepped into the gap which had been caused by the loss of confidence of both the editors and the German people, and Fritzsche did his job well.

No doubt Fritzsche was not as blunt as the man he succeeded; but Fritzsche's relative shrewdness and subtlety, his very ability to be more assuring and "to find," as Goebbels said, "the willing ears of the whole nation," these things made him the more useful accomplice of these conspirators.

Nazi Germany and its press went into the actual phase of war operations with Fritzsche at the head of the particular propaganda instrument controlling the German press and German news, whether by the press or by radio. In 1942 when Fritzsche transferred from the field of the press to the field of radio, he was not removed for bungling but only because Goebbels then needed him most in the field of radio. Fritzsche is not in the dock as a free journalist, but as an efficient, controlled Nazi propagandist, a propagandist who helped substantially to tighten the Nazi stranglehold over the German people, a propagandist who made the excesses of these conspirators more palatable to the consciences of the German people themselves, a propagandist who cynically proclaimed the barbarous racialism which is at the very heart of this conspiracy, a propagandist who coldly goaded humble Germans to blind fury against people they were told by him were subhuman and guilty of all the suffering of Germany, suffering which indeed these Nazis themselves had invited.

In conclusion, I wish to say only this. Without the propaganda apparatus of the Nazi State it is clear that the world, including Germany, would not have suffered the catastrophe of these years; and it is because of Fritzsche's able role on behalf of the Nazi conspirators and their deceitful and barbarous practices in connection with the conspiracy that he is called to account before this International Tribunal.

SIR DAVID MAXWELL-FYFE (Deputy Chief Prosecutor for the United Kingdom): May it please the Tribunal, it was intended that the next presentation would be by Colonel Griffith-Jones in the case of the Defendant Hess. I understand that the Tribunal has in mind that it might be better if that were left for the moment; if so, Major Harcourt Barrington is prepared to make the presentation with regard to the Defendant Von Papen.

THE PRESIDENT: Yes. We understood that the Defendant Hess's counsel could not be present today, and therefore it was better to go on with one of the others.

SIR DAVID MAXWELL-FYFE: If your Lordship pleases, then Major Harcourt Barrington will deal with the presentation against the Defendant Von Papen.

MAJOR J. HARCOURT BARRINGTON (Junior Counsel for the United Kingdom): My Lord, I understand that the court interpreters have not got the proper papers and document books up

here yet, but they can get them in a very few minutes. Would your Lordship prefer that I should go on or wait until they have got them?

THE PRESIDENT: Very well. Go on then.

MAJOR BARRINGTON: May it please the Tribunal, it is my duty to present the case against the Defendant Von Papen. Before I begin I would like to say that the documents in the document books are arranged numerically and not in the order of presentation, and that the English document books are paged in red chalk at the bottom of the page.

THE PRESIDENT: Does that mean that the French and the Soviet are not?

MAJOR BARRINGTON: My Lord, we did not prepare French and Soviet document books.

THE PRESIDENT: Major Barrington, the French members of the Tribunal have no document books at all.

MAJOR BARRINGTON: My Lord, there should be a German document book for the French member. I understand it is now being fetched. Should I wait until it arrives?

THE PRESIDENT: I think you can go on.

MAJOR BARRINGTON: The Defendant Papen is charged primarily with the guilt of conspiracy, and the proof of this charge of conspiracy will emerge automatically from the proof of the four allegations specified in Appendix A of the Indictment. These are as follows:

(1) He promoted the accession of the Nazi conspirators to power.

(2) He participated in the consolidation of their control over Germany.

(3) He promoted the preparations for war.

(4) He participated in the political planning and preparation of the Nazi conspirators for wars of aggression, *et cetera.*

Broadly speaking, the case against Von Papen covers the period from the lst of June 1932 to the conclusion of the Anschluss in March 1938.

So far in this Trial, almost the only evidence specifically implicating Von Papen has been evidence in regard to his activities in Austria. This evidence need only be summarized now. But if the case against Von Papen rested on Austria alone, the Prosecution would be in the position of relying on a period during which the essence of his task was studied plausibility and in which his whole purpose was to clothe his operations with a cloak of sincerity and innocent respectability. It is therefore desirable to put the evidence

already given in its true perspective by showing in addition the active and prominent part he played for the Nazis before he went to Austria.

Papen himself claims to have rejected many times Hitler's request that he should actually join the Nazi Party. Until 1938 this may indeed have been true, for he was shrewd enough to see the advantage of maintaining, at least outwardly, his personal independence. It will be my object to show that, despite his facade of independence, Papen was an ardent member of this conspiracy and, in spite of warnings and rebuffs, was unable to resist its fascination.

In the submission of the Prosecution, the key to Von Papen's activities is that, although perhaps not a typical Nazi, he was an unscrupulous political opportunist and ready to fall in with the Nazis when it suited him. He was not unpracticed in duplicity and viewed with an apparent indifference the contradictions and betrayals which his duplicity inevitably involved. One of his chief weapons was fraudulent assurance.

Before dealing with the specific charges, I will refer to Document 2902-PS, which is on Page 38 of the English document book, and I put it in as Exhibit GB-233. This is Von Papen's own signed statement showing his appointments. It is not in chronological order, but I will read the relevant parts as they come. I need not read the whole of it. The Tribunal will note that this statement is written by Dr. Kubuschok, Counsel for Von Papen, although it is signed by Von Papen himself. Paragraph 1:

> "Von Papen many times rejected Hitler's request to join the NSDAP. Hitler simply sent him the Golden Party Badge. In my opinion, legally speaking, he did not thereby become a member of the Party."

Interposing there, My Lord, the fact that he was officially regarded as having become a member in 1938 will be shown by a document which I shall refer to later.

Going on to Paragraph 2:

> "From 1933 to 1945 Von Papen was a member of the Reichstag."

Paragraph 3:

> "Von Papen was Reich Chancellor from the 1st of June 1932 to the 17th of November 1932. He carried on the duties of Reich Chancellor until his successor took office—until the 2d of December 1932."

Paragraph 4:

> "On the 30th of January 1933 Von Papen was appointed Vice Chancellor. From the 30th of June 1934"—which was the

date of the Blood Purge—"he ceased to exercise official duties. On that day he was placed under arrest. Immediately after his release on the 3rd of July 1934 he went to the Reich Chancellery to hand in his resignation to Hitler."

The rest of that paragraph I need not read. It is an argument which concerns the authenticity or otherwise of his signature as it appears in the *Reichsgesetzblatt* to certain decrees in August 1934. I am prepared to agree with his contention that his signature on those decrees may not have been correct and may have been a mistake. He admits holding office only to the 3rd of July 1934.

He was, as the Tribunal will also remember, in virtue of being Reich Chancellor, a member of the Reich Cabinet.

Going on to Paragraph 5:

"On the 13th of November 1933, Von Papen became Plenipotentiary for the Saar. This office was terminated under the same circumstances described under Paragraph 4."

The rest of the document I need not read. It concerns his appointments to Vienna and Ankara, which are matters of history. He was appointed Minister to Vienna on the 26th of July 1934, and recalled on the 4th of February 1938, and he was Ambassador in Ankara from April 1939 until August 1944.

The first allegation against the Defendant Von Papen is that he used his personal influence to promote the accession of the Nazi conspirators to power. From the outset Von Papen was well aware of the Nazi program and Nazi methods. There can be no question of his having encouraged the Nazis through ignorance of these facts. The official NSDAP program was open and notorious; it had been published in *Mein Kampf* for many years; it had been published and republished in the *Yearbook of the NSDAP* and elsewhere. The Nazis made no secret of their intention to make it a fundamental law of the State. This has been dealt with in full at an earlier stage of the Trial.

During 1932 Von Papen as Reich Chancellor was in a particularly good position to understand the Nazi purpose and methods; and in fact, he publicly acknowledged the Nazi menace. Take, for instance, his Münster speech on the 28th of August 1932. This is Document 3314-PS, on Page 49 of the English document book, and I now put it in as Exhibit GB-234, and I quote two extracts at the top of the page:

"The licentiousness emanating from the appeal of the leader of the National Socialist movement does not comply very well with his claims to governmental power.... I do not concede him the right to regard only the minority following his banner as the German nation and to treat all other fellow countrymen as free game."

Take also his Munich speech of the 13th of October 1932. That is on Page 50 of the English document book, Document Number 3317-PS, which I now put in as Exhibit GB-235, and I will simply read the last extract on the page:

"In the interest of the entire nation, we decline the claim to power by parties which want to bind their followers body and soul and which want to identify their party or movement with the German nation."

I do not rely on these random extracts to show anything more than that he had, in 1932, clearly addressed his mind to the inherent lawlessness of the Nazi philosophy. Nevertheless, in his letter to Hitler of the 13 of November 1932, which I shall quote more fully later, he wrote of the Nazi movement as, I quote:

"...so great a national movement, the merits of which for people and country I have always recognized in spite of necessary criticisms...."

So variable and so seemingly contradictory were Von Papen's acts and utterances regarding the Nazis that it is not possible to present the picture of Papen's part in this infamous enterprise unless one first reviews the steps by which he entered upon it. It then becomes clear that he threw himself, if not wholeheartedly, yet with cool and deliberate calculation, into the Nazi conspiracy.

I shall enumerate some of the principal steps by which Papen fell in with the Nazi conspiracy.

As a result of his first personal contact with Hitler, Von Papen as Chancellor rescinded, on the 14th of June 1932, the decree passed on the 13th of April 1932 for the dissolution of the Nazi para-military organizations, the SA and the SS. He thereby rendered the greatest possible service to the Nazi Party, inasmuch as it relied upon its para-military organizations to beat the German people into submission. The decree rescinding the dissolution of the SA and the SS is shown in Document D-631, on Page 64 of the document book; and I now put it in as Exhibit GB-236. It is an extract from the *Reichsgesetzblatt,* which was an omnibus decree. The relevant passage is in Paragraph 20:

"This order comes into operation from the day of announcement. It takes the place of the Decree of the Reich President for the Safeguarding of the State Authority of...."—the date should be the 13th of April 1932.

THE PRESIDENT: Which page of the document book is it?

MAJOR BARRINGTON: I am sorry, My Lord; it is Page 64. And the date shown there should not be the 3rd of May 1932, it should be the 13th of April 1932. That was the decree which had previously dissolved the Nazi para-military organizations under the

Government of Chancellor Brüning. At the bottom of the page the Tribunal will see the relevant parts of the decree of the 13th of April reproduced. At the beginning of Paragraph 1 of that decree it said:

> "All organizations of a military nature of the German National Socialist Labor Party will be dissolved with immediate effect, particularly the SA and the SS."

This rescission by Von Papen was done in pursuance of a bargain made with Hitler which is mentioned in a book called *Dates from the History of the NSDAP* by Dr. Hans Volz, a book published with the authority of the NSDAP. It is already an exhibit, Exhibit USA-592. The extract I want to quote is on Page 59 of the document book, and it is Document Number 3463-PS. I quote an extract from Page 41 of this little book:

> "28th of May"—that was in 1932, of course—"In view of the imminent fall of Brüning, at a meeting between the former Deputy of the Prussian Center Party, Franz Von Papen, and the Führer in Berlin (first personal contact in spring 1932); the Führer agrees that a Papen cabinet should be tolerated by the NSDAP, provided that the prohibitions imposed on the SA, uniforms, and demonstrations be lifted and the Reichstag dissolved."

It is difficult to imagine a less astute opening gambit for a man who was about to become Chancellor than to reinstate this sinister organization which had been suppressed by his predecessor. This action emphasizes the characteristic duplicity and insincerity of his public condemnations of the Nazis which I quoted a few minutes ago.

Eighteen months later he publicly boasted that at the time of taking over the chancellorship he had advocated paving the way to power for what he called the "young fighting liberation movement." That will be shown in Document 3375-PS, which I shall introduce in a few minutes.

Another important step was when, on the 20th of July 1932, he accomplished his famous *coup d'etat* in Prussia which removed the Braun-Severing Prussian Government and united the ruling power of the Reich and Prussia in his own hands as Reichskommissar for Prussia. This is now a matter of history. It is mentioned in Document D-632, which I now introduce as Exhibit GB-237. It is on Page 65 of the document book. This document is, I think, a semi-official biography in a series of public men.

Papen regarded this step, his *coup d'etat* in Prussia, as a first step in the policy later pursued by Hitler of coordinating the states with the Reich, which will be shown in Document 3357-PS, which I shall come to later.

The next step, if the Tribunal will look at Document D-632, on Page 65 of the document book, the last four or five lines at the bottom of the page:

"The Reichstag elections of the 31st of July, which were the result of Von Papen's disbandment of the Reichstag on the 4th of June"—which was made in pursuance of the bargain that I mentioned a few minutes ago—"strengthened enormously the NSDAP, so that Von Papen offered to the leader of the now strongest party his participation in the government as Vice Chancellor. Adolf Hitler rejected this offer on the 13th of August.

"The new Reichstag, which assembled on the 30th of August, was disbanded by the 12th of September. The new elections brought about a considerable loss to the NSDAP, but did not strengthen the Government parties, so that Papen's Government retired on the 17th of November 1932 after unsuccessful negotiations with the Party leaders."

My Lord, I shall wish to quote a few more extracts from that biography, but as it is a mere catalogue of events, perhaps Your Lordship would allow me to return to it at the appropriate time.

So far as those negotiations mentioned just now in the biography concern Hitler, they involved an exchange of letters in which Von Papen wrote to Hitler on the 13th of November 1932. That letter is Document D-633, on Page 68 of the English document book, and I now put it in as Exhibit GB-238. I propose to read a part of this letter, because it shows the positive efforts made by Papen to ally himself with the Nazis, even in face of further rebuffs from Hitler. I read the third paragraph. I should tell the Tribunal that there is some underlining in the English translation of that paragraph which does not occur in the German text:

"A new situation has arisen through the elections of November the 6th, and at the same time a new opportunity for a consolidation of all nationalist elements. The Reich President has instructed me to find out by conversations with the leaders of the individual parties concerned whether and how far they are ready to support the carrying out of the political and economic program on which the Reich Government has embarked. Although the National Socialist press has been writing that it is a naive attempt for Reich Chancellor Von Papen to try to confer with personalities representing the nationalist concentration, and that there can only be one answer, 'No negotiations with Papen,' I would consider it neglecting my duties, and I would be unable to justify it to my own conscience, if I did not approach you in the spirit of the order given to me. I am quite aware from the papers

that you are maintaining your demands to be entrusted with the Chancellor's Office, and I am equally aware of the continued existence of the reasons for the decision of August the 13th. I need not assure you again that I myself do not claim any personal consideration at all. All the same, I am of the opinion that the leader of so great a national movement, whose merits for people and country I have always recognized in spite of necessary criticism, should not refuse to enter into discussions on the situation and the decisions required with the presently leading and responsible German statesman. We must attempt to forget the bitterness of the elections and to place the cause of the country which we are mutually serving above all other considerations."

Hitler replied on 16 November 1932 in a long letter, laying down terms which were evidently unacceptable to Von Papen, since he resigned the next day and was succeeded by Von Schleicher. That document is D-634, put in as part of Exhibit GB-238 as it is part of the same correspondence. I need not read from the letter itself.

Then came the meetings between Papen and Hitler in January 1933, in the houses of Von Schröder and of Ribbentrop, culminating in Von Schleicher being succeeded by Hitler as Reich Chancellor on 30 January 1933. Referring back again to the biography on Page 66 of the document book, there is an account of the meeting at Schröder's house, the second paragraph on the page:

"The meeting with Hitler, which took place in the beginning of January 1933, in the house of the banker Baron Von Schröder in Cologne, is due to his initiative"—that means, of course Papen's initiative—"although Von Schröder was the mediator. Both Von Papen and Hitler later made public statements about this meeting (press of 6 January 1933). After the rapid downfall of Von Schleicher on the 28th of January 1933, the Hitler-Von Papen-Hugenberg-Seldte Cabinet was formed on the 30th of January 1933 as a government of national solidarity. In this cabinet Von Papen held the office of Vice Chancellor and Reich Commissioner for Prussia."

The meetings at Ribbentrop's house, at which Papen was also present, have been mentioned by Sir David Maxwell-Fyfe (Document D-472, which was Exhibit GB-130).

I now wish to introduce into evidence an affidavit by Von Schröder, but I understand that Dr. Kubuschok wishes to take an objection to this. Perhaps before Dr. Kubuschok takes his objection it might help if I said, quite openly, that Schröder is now in custody, and according to my information he is at

Frankfurt; so that physically he undoubtedly could be called. Perhaps I might also say at this moment that there would be no objection from the Prosecution's point of view to interrogatories being administered to Von Schröder on the subject matter of this affidavit.

DR. EGON KUBUSCHOK (Counsel for Defendant Von Papen): I object to the reading of the affidavit of Schröder. I know that in individual cases the Tribunal has permitted the reading of affidavits. This occurred under Article 19 of the Charter, which is based on the proposition that the Trial should be conducted as speedily as possible and that for this reason the Tribunal should order the rules of ordinary court procedure in that respect. Of decisive importance, therefore, is the speediness of the Trial. But in our case the reading of the affidavit cannot be approved for that reason.

Our case is quite analogous to the case that was decided on the 14th of December with regard to Kurt Von Schuschnigg's affidavit. Schröder is in the vicinity. Schröder was apparently brought to the neighborhood of Nuremberg for the purposes of this Trial. The affidavit was taken down on 5 December. He could be brought here at any time. The reading of the affidavit would have the consequence that I would have to refer not only to him but also to several other witnesses, because Schröder describes a series of facts in his affidavit which in their entirety are not needed for the finding of a decision. However, once introduced into the Trial, they must also be discussed by the Defense in the pursuance of its duty.

The affidavit discusses internal political matters, using improper terms. For this reason misunderstandings would be brought into the Trial which could be obviated by the hearing of a witness I believe, therefore, that the oral testimony of a witness should be the only way in which Schröder's testimony should be submitted to the Tribunal, since otherwise a large number of witnesses will have to be called along with the reading of Schröder's affidavit and his personal interrogation.

THE PRESIDENT: Have you finished?

DR. KUBUSCHOK: Yes.

THE PRESIDENT: Do you wish to make any observation?

MAJOR BARRINGTON: Yes, I do, My Lord. The Tribunal has been asked to exclude this affidavit, using as a precedent the decision on Von Schuschnigg's affidavit. I think I am correct in saying that Von Schuschnigg's affidavit was excluded as an exception to the general rule on affidavits which the Tribunal laid down earlier the same day when Mr. Messersmith's affidavit was

accepted. Perhaps Your Lordship will allow me to read from the transcript the Tribunal's decision on the affidavit of Messersmith.

THE PRESIDENT: Mr. Messersmith was in Mexico, was he not?

MAJOR BARRINGTON: That is so, My Lord; yes.

THE PRESIDENT: So that the difference between him and Schuschnigg in that regard was very considerable.

MAJOR BARRINGTON: In that regard, but what I was going to say was this, My Lord: In ruling on Messersmith's affidavit Your Lordship said:

> "In view of those provisions"—that is Article 19 of the Charter—"the Tribunal holds that affidavits can be presented and that in the present case it is a proper course. The question of the probative value of the affidavit as compared with the witness who has been cross-examined would, of course, be considered by the Tribunal, and if at a later stage the Tribunal thinks the presence of a witness is of extreme importance, the matter can be reconsidered."

And Your Lordship added:

> "If the Defense wish to put interrogatories to the witness, they will be at liberty to do so."

Now in the afternoon of that day, when Schuschnigg's affidavit came up . . .

THE PRESIDENT: Which day was this?

MAJOR BARRINGTON: This was the 28th of November, My Lord. It is on Page 473 (Volume II, Page 352) of the transcript, the Messersmith affidavit; and Page 523 (Volume II, Page 384) is the Schuschnigg affidavit.

Now, when the objection was taken to the Schuschnigg affidavit, the objection was put in these words:

> "Today when the resolution was announced in respect of the use to be made of the written affidavit of Mr. Messersmith, the Court was of the opinion that in a case of very great importance possibly it would take a different view of the matter."—And then defense counsel went on to say—"As it is a case of such an important witness, the principle of direct evidence must be adhered to."

THE PRESIDENT: Have you a reference to a subsequent occasion on which we heard Mr. Justice Jackson upon this subject, when Mr. Justice Jackson submitted to us that on the strict interpretation of Article 19 we were bound to admit any evidence which we deemed to have probative value?

MAJOR BARRINGTON: My Lord, I haven't got that reference.

THE PRESIDENT: Why don't you call this witness?

MAJOR BARRINGTON: I say, quite frankly—and I was coming on to that—this witness is in a position of being an alleged co-conspirator, and I do not make any secret of the fact that for obvious reasons the Prosecution would not desire to call him as a witness, and I put this affidavit forward as an admission by a co-conspirator. I admit that it is not an admission made in pursuance of the conspiracy, but I submit that by technical rules of evidence, this affidavit may be accepted in evidence as an admission by a co-conspirator; and as I said before, there will be no objection to administering interrogatories on the subject matter of this affidavit, and indeed, the witness would be available to be called as a defense witness if required.

That is all I have to say on that, My Lord.

THE PRESIDENT: There would be no objection to bringing the witness here for the purpose of cross-examination upon the affidavit?

MAJOR BARRINGTON: I don't think there could be any objection if it were confined to the subject matter of the affidavit. I would not like...

THE PRESIDENT: How could you object, for instance, to the defendant himself applying to call the witness?

MAJOR BARRINGTON: As I said, I don't think there could be any objection to that, My Lord.

THE PRESIDENT: The result would be the same, wouldn't it? If the witness were called for the purpose of cross-examination, then he could be asked other questions which were not arising out of the matter in the affidavit. If the defendant can call him as his own witness, there can be no objection to the cross-examination going outside the matter of the affidavit.

MAJOR BARRINGTON: Of course he couldn't be cross-examined by the Prosecution in that event, My Lord.

THE PRESIDENT: You mean you would ask his questions in re-examination, but they would not take the form of cross-examination?

MAJOR BARRINGTON: That is what I mean, My Lord.

THE PRESIDENT: You mean that you would prefer that he should be called for the defendants rather than be cross-examined outside the subject matter of the affidavit?

MAJOR BARRINGTON: Yes.

THE PRESIDENT: Is there anything you wish to add or not?

MAJOR BARRINGTON: There is nothing I wish to add.

THE PRESIDENT: It is time for us to adjourn. We will consider the matter.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

DR. MARTIN HORN (Counsel for Defendant Von Ribbentrop): In the place of Dr. Von Rohrscheidt, counsel for Defendant Hess, I would like to make the following declaration.

Dr. Von Rohrscheidt has been the victim of an accident. He has broken his ankle. The Defendant Hess has asked me to notify the Tribunal that from now on until the end of the Trial, he desires to make use of his right under the Charter to defend himself. The reason that he wants to do that for the whole length of the Trial is to be found in the fact that due to his absence his counsel will not be informed of the proceedings of the Court.

THE PRESIDENT: The Tribunal will consider the oral application which has just been made to it on behalf of the Defendant Hess.

As to the objection to the affidavit of Von Schröder which was made this morning by counsel for the Defendant Von Papen, the Tribunal does not propose to lay down any general rule about the admission of affidavit evidence. But in the particular circumstances of this case, the Tribunal will admit the affidavit in question but will direct that if the affidavit is put in evidence, the man who made the affidavit, Von Schröder, must be presented, brought here immediately for cross-examination by the defendant's counsel. When I say immediately I mean as soon as possible.

MAJOR BARRINGTON: My Lord, I will not introduce this affidavit.

THE PRESIDENT: Yes, Major Barrington.

MAJOR BARRINGTON: My Lord, before coming on to that affidavit, I last read a passage from the biography about the meeting at Von Schröder's house, and I ask the Tribunal to deduce from that extract from the biography that it was at that meeting that a discussion took place between Von Papen and Hitler, which led up to the government of Hitler in which Von Papen served as Vice Chancellor. So that now at the point the Defendant Von Papen was completely committed to going along with the Nazi Party, and with his eyes open and on his own initiative he had helped materially to bring them into power.

The second allegation against the Defendant Von Papen is that he participated in the consolidation of Nazi control over Germany.

In the first critical year and a half of the Nazi consolidation Von Papen, as Vice Chancellor, was second only to Hitler in the Cabinet which carried out the Nazi program.

The process of consolidating the Nazi control of Germany by legislation has been fully dealt with earlier in this Trial. The high

position of Von Papen must have associated him closely with such legislation. In July 1934 Hitler expressly thanked him for all that he had done for the co-ordination of the government of the National Revolution. That will appear in Document 2799-PS. In fact, although I shall read from that document in a minute, the document has been introduced to the Court by Mr. Alderman.

Two important decrees may be mentioned specially, as actually bearing the signature of Von Papen. First, the decree relating to the formation of special courts, dated the 21st of March 1933, for the trial of all cases involving political matters. The Tribunal has already taken judicial notice of this decree. The reference to the transcript is Page 30 (Volume II, Page 197) of the 22d of November, afternoon session.

This decree was the first step in the Nazification of the German judiciary. In all political cases it abolished fundamental rights, including the right of appeal, which had previously characterized the administration of German criminal justice.

On the same date, the 21st of March 1933, Von Papen personally signed the amnesty decree liberating all persons who had committed murder or any other crime between the 30th of January and the 21st of March 1933 in the National Revolution of the German people. That document is 2059-PS, and is on Page 30 of the English document book. I read Section 1.

THE PRESIDENT: I don't think you need read the decrees if you will summarize them.

MAJOR BARRINGTON: If Your Lordship pleases, I will ask you to take judicial notice of that decree.

THE PRESIDENT: Yes.

MAJOR BARRINGTON: As a member of the Reich Cabinet, Von Papen was, in my submission, responsible for the legislation carried through even when the decrees did not actually bear his signature. But I shall mention as examples two categories of legislation in particular in order to show by reference to his own previous and contemporaneous statements that they were not matters of which he could say that as a respectable politician he took no interest in them.

First, the civil service. As a public servant himself, Von Papen must have had a hard but apparently successful struggle with his conscience when associating himself with the sweeping series of decrees for attaining Nazi control of the civil service. This has been dealt with on Page 30 (Volume II, Page 197) of the transcript of the 22d of November in the afternoon session, and Page 257 (Volume II, Page 207). In this connection I refer the Tribunal to Document 351-PS, which is on Page 1 of the document book. It is

Exhibit USA-389, and it is the minutes of Hitler's first Cabinet meeting on the 30th of January 1933. I read from the last paragraph of the minutes, on Page 5 of the document book in the middle of the paragraph:

> "The Deputy of the Reich Chancellor and the Reich Commissioner for the State of Prussia suggested that the Reich Chancellor should refute, in an interview at the earliest opportunity, the rumors about inflation and the rumors about infringing the rights of civil servants."

Even if this was not meant to suggest to Hitler the giving of a fraudulent assurance, at the best it emphasizes the indifference with which Von Papen later saw the civil servants betrayed.

Secondly, the decrees for the integration of the federal states with the Reich. These again have been dealt with earlier in the Trial, Page 29 (Volume II, Page 196) of the transcript of 22 November, afternoon session. The substantial effect of these decrees was to abolish the states and to put an end to federalism and any possible retarding influence which it might have upon the centralization of power in the Reich Cabinet. The importance of this step, as well as the role played by Papen, is reflected in the exchange of letters between Hindenburg, Von Papen—in his capacity as Reich Commissioner for Prussia—and Hitler, in connection with the recall of the Reich Commissioner and the appointment of Göring to the post of Prime Minister of Prussia. I refer to Document 3357-PS, which is on Page 52 of the English document book, and I now put it in as Exhibit GB-239.

In tendering his resignation on the 7th of April 1933, Von Papen wrote to Hitler, and I read from the document:

> "With the draft of the law for the co-ordination of the states with the Reich, passed today by the Reich Chancellor, legislative work has begun which will be of historical significance for the political development of the German State. The step taken on 20 July 1932 by the Reich Government, which I headed at the time, with the aim of abolishing the dualism between the Reich and Prussia is now crowned by this new interlocking of the interests of the state of Prussia with those of the Reich. You, Herr Reich Chancellor, will now be, as once was Bismarck, in a position to co-ordinate in all points the policy of the greatest of German states with that of the Reich. Now that the new law affords you the possibility of appointing a Prussian Prime Minister, I beg you to inform the Reich President that I dutifully return to his hands my post of Reich Commissioner for Prussia."

I would like to read also the letter which Hitler wrote to Hindenburg in transmitting this resignation. Hitler wrote:

"Vice Chancellor Von Papen has addressed a letter to me which I enclose for your information. Herr Von Papen has already informed me within the last few days that he has come to an agreement with Minister Göring to resign on his own volition, as soon as the unified conduct of the governmental affairs in the Reich and in Prussia would be assured by the new law on the co-ordination of policy in the Reich and the States.

"On the eve of the day when the new law on the institution of Reichsstatthalter was adopted, Herr Von Papen considered this aim as having been attained, and requested me to undertake the appointment of the Prussian Prime Minister, at the same time offering further collaboration in the Reich Government, by now lending full service.

"Herr Von Papen, in accepting the post of Commissioner for the Government of Prussia in these difficult times since 30 January, has rendered a very meritorious service to the realization of the idea of co-ordinating the policy in Reich and states. His collaboration in the Reich Cabinet, to which he is now lending all his energy, is infinitely valuable; my relationship to him is such a heartily friendly one, that I sincerely rejoice at the great help I shall thus receive."

Yet it was only 5 weeks before this that on the 3rd of March 1933, Von Papen had warned the electorate at Stuttgart against abolishing federalism. I will now read from Document 3313-PS, which is on Page 48 of the English document book, and which I now introduce as Exhibit GB-240—about the middle of the third paragraph. This is an extract from Von Papen's speech at Stuttgart. He said:

"Federalism will protect us from centralism, that organizational form which focuses all the living strength of a nation on one point. No nation is less fitted to be governed centrally than the German."

Earlier, at the time of the elections in the autumn of 1932, Von Papen as Chancellor had visited Munich. The *Frankfurter Zeitung* of the 12th of October 1932 commented on his policy. I refer to Document 3318-PS on Page 51 of the English document book, which I introduce as Exhibit GB-241. The *Frankfurter Zeitung* commented:

"Von Papen claimed that it had been his great aim from the very beginning of his tenure in office to build a new Reich for, and with, the various states. The Reich Government is taking a definite federalist attitude. Its slogan is not a dreary centralism or uniformity."

That was in October 1932. All that was now thrown overboard in deference to his new master.

I now come to the Jews. In March 1933 the entire Cabinet approved a systematic state policy of persecution of the Jews. This has already been described to the Tribunal. The reference to the transcript is Pages 1442 (Volume III, Page 525) and 2490 (Volume V, Page 93).

Only 4 days before the boycott was timed to begin "with all ferocity"—to borrow the words of Dr. Goebbels—Von Papen wrote a radiogram of reassurance to the Board of Trade for German-American Commerce in New York which had expressed its anxiety to the German Government about the situation. His assurance—which I now put in as Document D-635, and it will be Exhibit GB-242 on Page 73 of the English document book—his assurance was published in the *New York Times* on the 28th of March 1933, and it contained the following sentence which I read from about the middle of the page. This document is the last but one in the German document book:

> "Reports circulated in America and received here with indignation about alleged tortures of political prisoners and mistreatment of Jews deserve strongest repudiation. Hundreds of thousands of Jews, irrespective of nationality, who have not taken part in political activities, are living here entirely unmolested."

This is a characteristic . . .

DR. KUBUSCHOK: The article in the *New York Times* goes back to a telegram of the Defendant Von Papen, which is contained in the document book one page ahead. The English translation has a date of the 27th of March. This date is an error. The German text which I received shows that it is a question of a week-end letter, which, according to the figures on the German document, was sent on the 25th of March. This difference in time is of particular importance for the following reason:

In effect, on the 25th of March nothing was yet known concerning the Jewish boycott, which Goebbels then announced for the 1st of April. The Defendant Von Papen could, therefore, on the 25th of March, point to these then comparatively few smaller incidents as he does in the telegram. In any case, the conclusion of the indictment that the contents of the telegram were a lie thereby falls.

THE PRESIDENT: Major Barrington, have you the original of that?

MAJOR BARRINGTON: The original is here, My Lord; yes. It is quite correct that there are some figures at the top, which, though

I had not recognized it, might indicate that it was dispatched on the 25th.

THE PRESIDENT: And when was the meeting of the Cabinet which approved the policy of persecution of the Jews?

MAJOR BARRINGTON: Well, My Lord, I can't say. It was some time within the last few days of March, but it might have been on the 26th. I can have that checked up.

THE PRESIDENT: Very well.

DR. KUBUSCHOK: May I clarify that matter by saying that the Cabinet meeting in which the Jewish question was discussed took place at a much later date and that in this Cabinet meeting Cabinet members, among others the Defendant Von Papen, condemned the Jewish boycott. I shall submit the minutes of the meeting as soon as my motion has been granted.

THE PRESIDENT: I don't know what you mean by your motion being granted. Does Counsel for the Prosecution say whether he persists in his allegation or whether he withdraws it?

MAJOR BARRINGTON: I will say this. Subject to checking the date when the Cabinet meeting took place . . .

THE PRESIDENT: Well, you can do that at the adjournment and let us know in the morning.

MAJOR BARRINGTON: If Your Lordship pleases. At this point I will just say this: That it was, as the Tribunal has already heard, common knowledge at the time that the Nazi policy was anti-Jewish, and Jews were already in concentration camps, so I will leave it to the Tribunal to infer that at the time when that radiogram was sent, which I am prepared to accept as being the 25th of March, that Von Papen did know of this policy of boycotting.

I will go further now that I am on this point, and I will say that Von Papen was indeed himself a supporter of the anti-Jewish policy, and as evidence of this I will put in Document 2830-PS, which is on Page 37A of the document book, and which I now introduce as Exhibit GB-243.

This is a letter, My Lord, written by Von Papen from Vienna on the 12th of May 1936 to Hitler on the subject of the Freiheitsbund. Paragraph 4 of the English text is as follows:

> "The following incident is interesting. The Czech Legation secretary Dohalsky has made to Mr. Staud, (leader of the Freiheitsbund) the offer to make available to the Freiheitsbund any desired amount from the Czech Government which he would need for the strengthening of his struggle against the Heimwehr. Sole condition is that the Freiheitsbund must guarantee to adopt an anti-German attitude. Mr. Staud has

flatly refused this offer. This demonstrates how even in the enemy's camp the new grouping of forces is already taken into account. From this the further necessity results for us to support this movement financially as heretofore, and mostly in reference to the continuation of its fight against Jewry."

DR. KUBUSCHOK: I must point out here a difficulty which has apparently been caused by the translation. In the original German text the word "mit Bezug" is used in regard to the transmittal in the following way: "... referring to the continuation of its fight against Jewry." This word "mit Bezug" means here that under this heading the money must be transmitted, although this was not the real purpose, for the Austrian Freiheitsbund (Freedom Union) was not an anti-Semitic movement but a legal trade union to which Chancellor Dollfuss also belonged. This expression "mit Bezug" means only that the transmittal of the money demanded a covering designation because it was not permissible to transmit money from abroad to a party recognized by the state for any party purposes, as is shown by the rejected offer of the Czechoslovaks. I only wanted to point out here that the words "in reference" perhaps give a wrong impression and should rather be translated "referring." In any case, I should like to point out that this "in reference" was a kind of camouflage for the transmittal of the money.

THE PRESIDENT: I don't know to which word you are referring, but as I understand it the only purpose of referring to this letter was to prove that in it Von Papen was suggesting that a certain organization should be financially assisted in its fight against Jewry. That is the only purpose of referring to the letter. I don't know what you mean about some word being wrongly translated.

DR. KUBUSCHOK: That is exactly how the error originated. The money was not transmitted to fight Jewry for that was not at all the purpose of this Christian Trade Union in Austria, but a certain designation for the transmittal of the money had to be devised. So this continuation of its fight against Jewry was used. The purpose therefore was not the fight against Jewry but the elimination through financial support of another foreign influence, namely that of Czechoslovakia.

THE PRESIDENT: I should have thought myself that the point which might have been taken against the Prosecution was that the letter was dated nearly 3 years after the time with which you were then dealing.

MAJOR BARRINGTON: That is so, My Lord; it was not at the time of the previous one.

THE PRESIDENT: Yes, the previous one was marked 1933, and this was 1936.

MAJOR BARRINGTON: Oh yes. I put it in, My Lord, only to show what Von Papen's position was by then, at any rate. If Your Lordship has any doubt as to the translation I would suggest that it might now be translated by the interpreter. We have the German text, a photostat.

THE PRESIDENT: I think you can have it translated again tomorrow; if necessary, you can have it gone into again then.

MAJOR BARRINGTON: Yes, My Lord.

I come now to the Catholic Church. The Nazi treatment of the Church has been fully dealt with by the United States Prosecution. In this particular field Von Papen, a prominent lay Catholic, helped to consolidate the Nazi position both at home and abroad as perhaps no one else could have done.

In dealing with the persecution of the Church, Colonel Wheeler read to the Tribunal Hitler's assurance given to the Church on the 23rd of March 1933 in Hitler's speech on the Enabling Act, an assurance which resulted in the well-known Fulda Declaration of the German bishops, also quoted by Colonel Wheeler. That was Document 3387-PS, which was Exhibit USA-566. This deceitful assurance of Hitler's appears to have been made at the suggestion of Von Papen 8 days earlier at the Reich Cabinet meeting at which the Enabling Act was discussed, on the 15th of March 1933. I refer to Document 2962-PS, which is Exhibit USA-578, and it is on Page 40 of the English document book. I read from Page 44, that is at the bottom of Page 6 of the German text. The minutes say:

> "The Deputy of the Reich Chancellor and Reich Commissioner for Prussia stated that it is of decisive importance to co-ordinate into the new state the masses standing behind the parties. The question of the incorporation of political Catholicism into the new state is of particular importance."

That was a statement made by Von Papen at the meeting at which the Enabling Act was discussed prior to Hitler's speech on the Enabling Act in which he gave his assurance to the Church.

On the 20th of July 1933 Papen signed the Reich Concordat negotiated by him with the Vatican. The Tribunal has already taken judicial notice of this as Document 3280(a)-PS. The signing of the Concordat, like Hitler's Papen-inspired speech on the Enabling Act, was only an interlude in the church policy of the Nazi conspirators. Their policy of assurances was followed by a long series of violations which eventually resulted in Papal denunciation in the Encyclical "Mit brennender Sorge," which is 3476-PS, Exhibit USA-567.

Papen maintains that his actions regarding the Church were sincere, and he has asserted during interrogations that it was Hitler

who sabotaged the Concordat. If Von Papen really believed in the very solemn undertakings given by him on behalf of the Reich to the Vatican, I submit it is strange that he, himself a Catholic, should have continued to serve Hitler after all those violations and even after the Papal Encyclical itself. I will go further. I will say that Papen was himself involved in what was virtually, if not technically, a violation of the Concordat. The Tribunal will recollect the allocution of the Pope, dated the 2d of June 1945, which is Document 3268-PS, Exhibit USA-356, from which on Page 1647 (Volume IV, Page 64) of the transcript Colonel Storey read the Pope's own summary of the Nazis' bitter struggle against the Church. The very first item the Pope mentioned is the dissolution of Catholic organizations and if the Tribunal will look at Document 3376-PS on Page 56 of the English document book, which I now put in as Exhibit GB-244 and which is an extract from *Das Archiv,* they will see that in September 1934 Von Papen ordered—and I say "ordered" advisedly—the dissolution of the Union of Catholic Germans, of which he was at the time the leader. The text of *Das Archiv* reads as follows:

> "The Reich Directorate of the Party announced the self-dissolution of the Union of Catholic Germans.
>
> "Since the Reich Directorate of the Party, through its Department for Cultural Peace, administers directly and to an increasing extent all cultural problems including those concerning the relations of State and churches, the tasks at first delegated to the Union of Catholic Germans are now included in those of the Reich Directorate of the Party in the interest of a still closer co-ordination.
>
> "Former Vice Chancellor Von Papen, up to now the leader of the Union of Catholic Germans, declared about the dissolution of this organization that it was done upon his suggestion, since the attitude of the National Socialist State toward the Christian and Catholic Church had been explained often and unequivocally by the Führer and Chancellor himself."

I said that Von Papen "ordered" the dissolutions, although the announcement said it was self-dissolution on his suggestion; but I submit that such a suggestion from one in Papen's position was equivalent to an order, since by that date it was common knowledge that the Nazis were dropping all pretense that rival organizations might be permitted to exist.

After 9 months' service under Hitler, spent in consolidating the Nazi control, Von Papen was evidently well content with his choice. I refer to Document 3375-PS, Page 54 of the English document book, which I put in as Exhibit GB-245. On the 2d of November

1933, speaking at Essen from the same platform as Hitler and Gauleiter Terboven, in the course of the campaign for the Reichstag election and the referendum concerning Germany's leaving the League of Nations, Von Papen declared:

> "Ever since Providence called upon me to become the pioneer of national resurrection and the rebirth of our homeland, I have tried to support with all my strength the work of the National Socialist movement and its Führer; and just as I at the time of taking over the Chancellorship"—that was in 1932—"advocated paving the way to power for the young fighting liberation movement, just as I on January 30 was destined by a gracious fate to put the hands of our Chancellor and Führer into the hand of our beloved Field Marshal, so do I today again feel the obligation to say to the German people and all those who have kept confidence in me:
>
> "The good Lord has blessed Germany by giving her in times of deep distress a leader who will lead her through all distresses and weaknesses, through all crises and moments of danger, with the sure instinct of the statesman into a happy future."

And then the last sentence of the whole text on Page 55:

> "Let us, in this hour, say to the Führer of the new Germany that we believe in him and his work."

By this time the Cabinet, of which Von Papen was a member and to which he had given all his strength, had abolished the civil liberties, had sanctioned political murder committed in aid of Nazism's seizure of power, had destroyed all rival political parties, had enacted the basic laws for abolition of the political influence of the federal states, had provided the legislative basis for purging the civil service and judiciary of anti-Nazi elements, and had embarked upon a State policy of persecution of the Jews.

Papen's words are words of hollow mockery: "The good Lord has blessed Germany . . . ."

The third allegation against the Defendant Papen is that he promoted preparations for war. Knowing as he did the basic program of the Nazi Party, it is inconceivable that as Vice Chancellor for a year and a half he could have been dissociated from the conspirators' warlike preparations; he, of whom Hitler wrote to Hindenburg on the 10th of April 1933 that, "His collaboration in the Reich Cabinet, to which he is now lending all his energy, is infinitely valuable."

The fourth allegation against Papen is that he participated in the political planning and preparations for wars of aggression and wars in violation of international treaties. In Papen's case this allegation is really the story of the Anschluss. His part in that was a

preparation for wars of aggression in two senses: First, that the Anschluss was the necessary preliminary step to all the subsequent armed aggressions; second, that, even if it can be contended that the Anschluss was in fact achieved without aggression, it was planned in such a way that it would have been achieved by aggression if that had been necessary.

I need do no more than summarize Papen's Austrian activities since the whole story of the Anschluss has been described to the Tribunal already, though with the Tribunal's permission I would like to read again two short passages of a particularly personal nature regarding Papen. But before I deal with Papen's activities in Austria there is one matter that I feel I ought not to omit to mention to the Tribunal.

On the 18th of June 1934 Papen made his remarkable speech at Marburg University. I do not propose to put it in evidence, nor is it in the document book, because it is a matter of history and in what I say I do not intend to commit myself in regard to the motives and consequences of his speech which are not free from mystery; but I will say this: That as far as concerns the subject matter of Papen's Marburg speech, it was an outspoken criticism of the Nazis. One must imagine that the Nazis were furiously angry; and although he escaped death in the Blood Purge 12 days later, he was put under arrest for 3 days. Whether this arrest was originally intended to end in execution or whether it was to protect him from the purge as one too valuable to be lost, I do not now inquire. After his release from arrest he not unnaturally resigned the Vice Chancellorship. Now the question that arises—and this is why I mention the matter at this point—is why, after these barbaric events, did he ever go back into the service of the Nazis again? What an opportunity missed! If he had stopped then he might have saved the world much suffering. Suppose that Hitler's own Vice Chancellor, just released from arrest, had defied the Nazis and told the world the truth. There might never have been a reoccupation of the Rhineland; there might never have been a war. But I must not speculate. The lamentable fact is that he slipped back, he succumbed again to the fascination of Hitler.

After the murder of Chancellor Dollfuss only 3 weeks later, on 25 July 1934, the situation was such as to call for the removal of the German Minister Rieth and for the prompt substitution of a man who was an enthusiast for the Anschluss with Germany, who could be tolerant of Nazi objectives and methods but who could lend an aura of respectability to official German representation in Vienna. This situation is described in the transcript at Pages 478 and 479 (Volume II, Pages 355, 356). Hitler's reaction to the murder of Dollfuss was immediate. He chose his man as soon as he heard the news. The very next day, the 26th of July, he sent Von Papen

a letter of appointment. This is on Page 37 of the English document book; it is document 2799-PS and it has already been judicially noticed by the Tribunal. Mr. Alderman read the letter, and I only wish to refer to the personal remarks toward the end. Hitler in this letter, after reciting his version of the Dollfuss affair and expressing his desire that Austrian-German relations should be brought again into normal and friendly channels, says in the third paragraph:

"For this reason I request you, dear Herr Von Papen, to take over this important task just because you have possessed and continue to possess my most complete and unlimited confidence ever since our collaboration in the Cabinet."

And the last paragraph of the letter:

"Thanking you again today for all that you once have done for the co-ordination of the Government of the National Revolution and since then, together with us, for Germany...."

THE PRESIDENT: This might be a good time to break off for 10 minutes.

[A recess was taken.]

MAJOR BARRINGTON: My Lord, I had just read from the letter of appointment as Minister in Vienna which Hitler sent to Von Papen on the 26th of July 1934. This letter, which, of course, was made public, naturally did not disclose the real intention of Von Papen's appointment. The actual mission of Von Papen was frankly stated shortly after his arrival in Vienna in the course of a private conversation he had with the American Minister, Mr. Messersmith. I quote from Mr. Messersmith's affidavit, which is Document 1760-PS, Exhibit USA-57, and it is on Page 22 of the document book, just about half way through the second paragraph. Mr. Messersmith said:

"When I did call on Von Papen in the German Legation, he greeted me with: 'Now you are in my Legation and I can control the conversation.' In the baldest and most cynical manner he then proceeded to tell me that all of southeastern Europe, to the borders of Turkey, was Germany's natural hinterland and that he had been charged with the mission of facilitating German economic and political control over all this region for Germany. He blandly and directly said that getting control of Austria was to be the first step. He definitely stated that he was in Austria to undermine and weaken the Austrian Government and from Vienna to work towards the weakening of the governments in the other states to the south and southeast. He said that he intended to use his reputation as a good Catholic to gain influence with certain Austrians, such as Cardinal Innitzer, towards that end."

Throughout the earlier period of his mission to Austria, Von Papen's activity was characterized by the assiduous avoidance of any appearance of intervention. His true mission was re-affirmed with clarity several months after its commencement when he was instructed by Berlin that "during the next 2 years nothing can be undertaken which will give Germany external political difficulties," and that every appearance of German intervention in Austrian affairs must be avoided; and Von Papen himself stated to Berger-Waldenegg, an Austrian Foreign Minister, "Yes, you have your French and English friends now, and you can have your independence a little longer." All of that was told in detail by Mr. Alderman, again quoting from Mr. Messersmith's affidavit, which is in the transcript at Pages 492 (Volume II, Page 354), 506, and 507 (Volume II, Pages 362-364).

Throughout this earlier period, the Nazi movement was gaining strength in Austria without openly admitted German intervention; and Germany needed more time to consolidate its diplomatic position. These reasons for German policy were frankly expressed by the German Foreign Minister Von Neurath in conversation with the American Ambassador to France; this was read into the transcript at Page 520 (Volume II, Page 381) by Mr. Alderman from Document L-150, Exhibit USA-65.

The Defendant Von Papen accordingly restricted his activities to the normal ambassadorial function of cultivating all respectable elements in Austria, and ingratiating himself in these circles. Despite his facade of strict nonintervention, Von Papen remained in contact with subversive elements in Austria. Thus in his report to Hitler, dated 17 May 1935, he advised concerning Austrian-Nazi strategy as proposed by Captain Leopold, leader of the illegal Austrian Nazis, the object of which was to trick Dr. Schuschnigg into establishing an Austrian coalition government with the Nazi Party. This is Document 2247-PS, Exhibit USA-64, and it is in the transcript at Pages 516 to 518 (Volume II, Pages 379, 380). It is on Page 34 of the English document book. I don't want to read this letter again, but I would like to call the attention of the Tribunal to the first line of what appears as the second paragraph in the English text, where Von Papen, talking about this strategy of Captain Leopold, says, "I suggest that we take an active part in this game."

I mention also in connection with the illegal organizations in Austria, Document 812-PS, Exhibit USA-61, which the Tribunal will remember was a report from Rainer to Bürckel, and which is dealt with in the transcript at Pages 498 to 505 (Volume II, Pages 367 to 376).

Eventually the agreement of 11 July 1936 between Germany and Austria was negotiated by Von Papen. This is already in evidence

as Document TC-22, Exhibit GB-20. The public form of this agreement provides that while Austria in her policy should regard herself as a German state, yet Germany would recognize the full sovereignty of Austria and would not exercise direct or indirect influence on the inner political order of Austria. More interesting was the secret part of the agreement, revealed by Mr. Messersmith, which ensured the Nazis an influence in the Austrian Cabinet and participation in the political life of Austria. This has already been read into the transcript at Page 522 (Volume II, Page 383) by Mr. Alderman.

After the agreement the Defendant Von Papen continued to pursue his policy by maintaining contact with the illegal Nazis, by trying to influence appointments to strategic Cabinet positions, and by attempting to secure official recognition of Nazi front organizations. Reporting to Hitler on 1 September 1936, he summarized his program for normalizing Austrian-German relations in pursuance of the agreement of 11 July. This is Document 2246-PS, Exhibit USA-67, on Page 33 of the English document book.

The Tribunal will recall that he recommended "as a guiding principle, continued, patient, psychological manipulations with slowly intensified pressure directed at changing the regime." Then he mentions his discussion with the illegal party and says that he is aiming at "corporative representation of the movement in the Fatherland Front, but nevertheless is refraining from putting National Socialists in important positions for the time being."

There is no need to go over again the events that led up to the meeting of Schuschnigg with Hitler in February 1938, which Von Papen arranged and which he attended, and to the final invasion of Austria in March 1938. It is enough if I quote from the biography again on Page 66 of the document book. It is about two-thirds of the way down the page:

> "Following the events of March 1938, which caused Austria's incorporation into the German Reich, Von Papen had the satisfaction of being present at the Führer's side when the entry into Vienna took place, after the Führer, in recognition of his valuable collaboration, had on 14 February 1938, admitted him to the Party and had bestowed upon him the Golden Party Badge."

And the biography continues:

> "At first Von Papen retired to his estate Wallerfangen in the Saar district, but soon the Führer required his services again and on the 18 April 1939 appointed Von Papen German Ambassador in Ankara."

Thus the fascination of serving Hitler triumphed once again, and this time it was at a date when the seizure of Czechoslovakia could

have left no shadow of doubt in Papen's mind that Hitler was determined to pursue his program of aggression.

One further quotation from the biography on Page 66, the last sentence of the last paragraph but one:

> "After his return to the Reich"—that was in 1944—"Von Papen was awarded the Knight's Cross of the War Merit Order with Swords."

In conclusion, I draw the Tribunal's attention again to the fulsome praises which Hitler publicly bestowed upon Von Papen for his services, especially in the earlier days. I have given two instances where Hitler said "His collaboration is infinitely valuable," and again "You possess my most complete and unlimited confidence."

Papen, the ex-Chancellor, the soldier, the respected Catholic, Papen the diplomat, Papen the man of breeding and culture—there was the man who could overcome the hostility and antipathy of those respectable elements who barred Hitler's way. Papen was—to repeat the words of Sir Hartley Shawcross in his opening speech—"one of the men whose co-operation and support made the Nazi Government of Germany possible."

That concludes my case. Sir David Maxwell-Fyfe will now follow with the case of Von Neurath.

SIR DAVID MAXWELL-FYFE: May it please the Tribunal, the presentation against the Defendant Von Neurath falls into five parts, and the first of these is concerned with the following positions and honors which he held.

He was a member of the Nazi Party from 30 January 1937 until 1945, and he was awarded the Golden Party Badge on 30 January 1937. He was general in the SS. He was personally appointed Gruppenführer by Hitler in September 1937 and promoted to Obergruppenführer on 21 June 1943. He was Reich Minister of Foreign Affairs under the Chancellorship of the Defendant Von Papen from 2 June 1932 and under the Chancellorship of Hitler from 30 January 1933 until he was replaced by the Defendant Von Ribbentrop on 4 February 1938. He was Reich Minister from 4 February 1938 until May 1945. He was President of the Secret Cabinet Council, to which he was appointed on 4 February 1938, and he was a member of the Reich Defense Council. He was appointed Reich Protector for Bohemia and Moravia from 18 March 1939 until he was replaced by the Defendant Frick on 25 August 1943.

He was awarded the Adler Order by Hitler at the time of his appointment as Reich Protector. The Defendant Ribbentrop was the only other German to receive this decoration.

If the Tribunal please, these facts are collected in Document 2973-PS, which is Exhibit USA-19, and in that document, which is

signed by the defendant and his counsel, the defendant makes comments on certain of these matters with which I should like to deal.

He says that the award of the Golden Party Badge was made on 30 January 1937 against his will and without his being asked.

I point out that this defendant not only refrained from repudiating the allegedly unwanted honor, but after receiving it, attended meetings at which wars of aggression were planned, actively participated in the rape of Austria, and tyrannized Bohemia and Moravia.

The second point is that his appointment as Gruppenführer was also against his will and without his being asked. On that point, the Prosecution submits that the wearing of the uniform, the receipt of the further promotion to Obergruppenführer and the actions against Bohemia and Moravia must be considered when the defendant's submission is examined.

He then says that his appointment as Foreign Minister was by Reich President Von Hindenburg. We submit we need not do more than draw attention to the personalities of the Defendant Von Papen and Hitler and to the fact that President Von Hindenburg died in 1934. This defendant continued as Foreign Minister until 1938.

He then says that he was an inactive Minister from the 4th of February 1938 until May 1945. At that moment attention is drawn to the activities which will be mentioned below and to the terrible evidence as to Bohemia and Moravia which will be forthcoming from our friend the Soviet prosecutor.

This defendant's next point is that the Secret Cabinet Council never sat nor conferred.

I point out to the Tribunal that that was described as a select committee of the Cabinet for the deliberation of foreign affairs; and the Tribunal will find that description in Document 1774-PS, which I now put in as Exhibit GB-246. This is an extract from a book by a well-known author, and on Page 2 of the document book, the first page of that document, in about the seventh line from the bottom of the page, they will see that among the bureaus subordinated to the Führer for direct counsel and assistance, number four is the Secret Cabinet Council; President: Reich Minister Baron Von Neurath.

And if the Tribunal will be kind enough to turn over to Page 3, about ten lines from the top, they will see the paragraph beginning:

> "A Secret Cabinet Council to advise the Führer in the basic problems of foreign policy has been created by the decree of 4 February 1938"—and a reference is given.
>
> "This Secret Cabinet Council is under the direction of Reich Minister Von Neurath, and includes the Foreign Minister, the Air Minister, the Deputy of the Führer, the Propaganda

Minister, the Chief of the Reich Chancellery, the Commanders-in-Chief of the Army and Navy and the Chief of the Supreme Command of the Armed Forces. The Secret Cabinet council constitutes a closer staff of collaborators of the Führer which consists exclusively of members of the Government of the Reich; strictly speaking it represents a select committee of the Reich Government for the deliberation on foreign affairs."

In order to have the formal composition of the body, that is shown in Document 2031-PS, which is Exhibit GB-217. I believe that has been put in. I need not read it again.

The next point that the defendant makes as to his offices is that he was not a member of the Reich Defense Council.

If I may very shortly take that point by stages, I remind the Tribunal that the Reich Defense Council was set up soon after Hitler's accession to power on 4 April 1933; and the Tribunal will find a note of that point in Document 2261-PS, Exhibit USA-24; and they will find that on the top of Page 12 of the document book there is a reference to the date of the establishment of the Reich Defense Council.

The Reich Defense Council is also dealt with in Document 2986-PS, Exhibit USA-409, which is the affidavit of the Defendant Frick, which the Tribunal will find on Page 14. In the middle of that short affidavit, Defendant Frick says:

"We were also members of the Reich Defense Council which was supposed to plan preparations in case of war which later on were published by the Ministerial Council for the Defense of the Reich."

Now, that the membership of this Council included the Minister for Foreign Affairs, who was then the Defendant Von Neurath, is shown by Document EC-177, Exhibit USA-390. If the Tribunal will turn to Page 16 of the document book, they will find that document and, at the foot of the page, the composition of the Reich Defense Council, the permanent members including the Minister for Foreign Affairs. That document is dated "Berlin, 22 May 1933" which was during this defendant's tenure of that office. That is the first stage.

The functioning of this council, with a representative of this defendant's department, Von Bülow, present, is shown by the minutes of the 12th meeting on 14 May 1936. That is Document EC-407, which I put in as Exhibit GB-247. The Tribunal will find at Page 21 that the minutes are for the 14th of May 1936, and the actual reference to an intervention of Von Bülow is in the middle of Page 22.

Then, the next period was after the secret law of 4 September 1938. This defendant was, under the terms of that law, a member of the Reich Defense Council by virtue of his office as president of

the Secret Cabinet Council. That is shown by the Document 2194-PS, Exhibit USA-36, which the Tribunal will find at Page 24, and if you will look at Page 24, you will see that the actual copy which was put in evidence was enclosed in a letter addressed to the Reich Protector in Bohemia and Moravia on the 4th of September 1939. It is rather curious that the Reich Protector for Bohemia and Moravia is now denying his membership in the council when the letter enclosing the law is addressed to him.

But if the Tribunal will be good enough to turn on to Page 28, which is still that document, the last words on that page describe the tasks of that council and say:

"The task of the Reich Defense Council consists, during peacetime, in deciding all measures for the preparation of Reich defense, and the gathering together of all forces and means of the nation in compliance with the directions of the Führer and Reich Chancellor. The tasks of the Reich Defense Council in wartime will be especially determined by the Führer and Reich Chancellor."

If the Tribunal will turn to the next page, they will see that the permanent members of the Council are listed, and that the seventh one is the President of the Secret Cabinet Council, who was, again, this defendant.

I submit that that deals, for every relevant period, with this defendant's statement that he was not a member of the Reich Defense Council.

The second broad point that the Prosecution makes against this defendant is that in assuming the position of Minister of Foreign Affairs in Hitler's Cabinet, this defendant assumed charge of a foreign policy committed to breach of treaties.

We say first that the Nazi Party had repeatedly and for many years made known its intention to overthrow Germany's international commitments, even at the risk of war. We refer to Sections 1 and 2 of the Party program, which, as the Tribunal has heard, was published year after year. That is on Page 32 of the document book. It is Document 1708-PS, Exhibit USA-255.

I just remind the Tribunal of these Points 1 and 2:

"1. We demand the unification of all Germans into Greater Germany on the basis of the right of self-determination of peoples.

"2. We demand equality of rights for the German people in respect to other nations; abrogation of the peace treaties of Versailles and St. Germain."

But probably clearer than that is the statement contained in Hitler's speech at Munich on the 15th of March 1939; and the Tribunal

will find one of the references to that on Page 40 at the middle of the page. It begins:

> "My foreign policy had identical aims. My program was to abolish the Treaty of Versailles. It is absolutely nonsense for the rest of the world to pretend today that I had not announced this program until 1933 or 1935 or 1937. Instead of listening to the foolish chatter of emigrees these gentlemen should have read, merely once, what I have written, that is written a thousand times."

It is futile nonsense for foreigners to raise that point. It would be still more futile for Hitler's Foreign Minister to suggest that he was ignorant of the aggressive designs of the policy. But I remind the Tribunal that the acceptance of force as a means of solving international problems and achieving the objectives of Hitler's foreign policy must have been known to anyone as closely in touch with Hitler as the Defendant Von Neurath; and I remind the Tribunal simply by reference to the passages from *Mein Kampf,* which were quoted by my friend Major Elwyn Jones, especially those toward the end of the book, Pages 552, 553, and 554.

So that the Prosecution say that by the acceptance of this foreign policy the Defendant Von Neurath assisted and promoted the accession to power of the Nazi Party.

The third broad point is that in his capacity as Minister of Foreign Affairs this defendant directed the international aspects of the first phase of the Nazi conspiracy, the consolidation of control in preparation for war.

As I have already indicated, from his close connection with Hitler this defendant must have known the cardinal points of Hitler's policy leading up to the outbreak of the World War, as outlined in retrospect by Hitler in his speech to his military leaders on the 23rd of November 1939.

This policy had two facets: internally, the establishment of rigid control; externally, the program to release Germany from its international ties. The external program had four points: 1) Secession from the Disarmament Conference; 2) the order to re-arm Germany; 3) the introduction of compulsory military services; and 4) the remilitarization of the Rhineland.

If the Tribunal will look at Page 35 in the document book, at the end of the first paragraph they will find these points very briefly set out, and perhaps I might just read that passage. It is Document 789-PS, Exhibit USA-23—about 10 lines before the break:

> "I had to reorganize everything, beginning with the mass of the people and extending it to the Armed Forces. First, reorganization of the interior, abolishment of appearances of

decay and defeatist ideas, education to heroism. While reorganizing the interior, I undertook the second task: To release Germany from its international ties. Two particular characteristics are to be pointed out: Secession from the League of Nations and denunciation of the Disarmament Conference. It was a hard decision. The number of prophets who predicted that it would lead to the occupation of the Rhineland was large, the number of believers was very small. I was supported by the nation, which stood firmly behind me, when I carried out my intentions. After that the order for rearmament. Here again there were numerous prophets who predicted misfortunes, and only a few believers. In 1935 the introduction of compulsory armed service. After that, militarization of the Rhineland, again a process believed to be impossible at that time. The number of people who put trust in me was very small. Then, beginning of the fortification of the whole country, especially in the west."

Now, these are summarized in four points. The Defendant Von Neurath participated directly and personally in accomplishing each of these four aspects of Hitler's foreign policy, at the same time officially proclaiming that these measures did not constitute steps toward aggression.

The first is a matter of history. When Germany left the Disarmament Conference this defendant sent telegrams dated the 14th of October 1933, to the President of the conference—and that will be found in *Dokumente Der Deutschen Politik,* on Page 94 of the first volume for that year. Similarly this defendant made the announcement of Germany's withdrawal from the League of Nations on the 21st of October 1933. That again will be found in the official documents. These are referred to in the transcript of the proceedings of the Trial, and I remind the Tribunal of the complementary documents of military preparation, which of course were read and which are Documents C-140, Exhibit USA-51, the 25th of October 1933, and C-153, Exhibit USA-43, the 12th of May 1934. These have already been read and I merely collect them for the memory and assistance of the Tribunal.

The second point—the rearmament of Germany: When this defendant was Foreign Minister, on the 9th of March 1935, the German Government officially announced the establishment of the German Air Force. That is Document TC-44, Exhibit GB-11, already referred to. On the 21st of May 1935 Hitler announced a purported unilateral repudiation of the Naval, Military, and Air clauses of the Treaty of Versailles which, of course, involved a similar purported unilateral repudiation of the same clauses of the Treaty for the Restoration of Friendly Relations with the United States, and

that will be found in Document 2288-PS, Exhibit USA-38, which again has already been read. On the same day the Reich Cabinet, of which this defendant was a member, enacted the secret Reich Defense Law creating the office of Plenipotentiary General for War Economy, afterwards designated by the Wehrmacht armament expert as "the cornerstone of German rearmament." The reference to the law is Document 2261-PS, Exhibit USA-24, a letter of Von Blomberg dated the 24th of June 1935, enclosing this law, which is already before the Tribunal; and the reference to the comment on the importance of the law is Document 2353-PS, Exhibit USA-35. Some of that has already been read, but if the Tribunal will be good enough to turn to Page 52 where that appears, they will find an extract and I might just give the Tribunal the last sentence:

> "The new regulations were stipulated in the Reich Defense Law of 21 May 1935, supposed to be promulgated only in case of war but already declared valid for carrying out war preparations. As this law . . . fixed the duties of the Armed Forces and the other Reich authorities in case of war, it was also the fundamental ruling for the development and activity of the war economy organization."

The third point is the introduction of compulsory military service. On the 16th of March 1935 this defendant signed the law for the organization of the Armed Forces which provided for universal military service and anticipated a vastly expanded German army. This was described by the Defendant Keitel as the real start of the large-scale rearmament program which followed. I will give the official reference in the *Reichsgesetzblatt,* year 1935, Volume I, Part 1, Page 369; and the references in the transcript are 411 (Volume II, Page 305), 454, and 455 (Volume II, Page 340).

The fourth point was the remilitarization of the Rhineland. The Rhineland was reoccupied on the 7th of March 1936. I remind the Tribunal of the two complementary documents: 2289-PS, Exhibit USA-56, the announcement of this action by Hitler; and C-139, Exhibit USA-53, which is the "Operation Schulung," giving the military action which was to be given if necessary. Again the reference to the transcript is Page 458 to Page 464 (Volume II, Pages 342 to 347). These were the acts for which the defendant shared responsibility because of his position and because of the steps which he took; but a little later he summed up his views on the actions detailed above in a speech before Germans abroad made on the 29th of August 1937, of which I ask the Tribunal to take judicial notice, as it appears in *Das Archiv,* 1937, at Page 650. But I quote a short portion of it that appears on Page 72 of the document book:

"The unity of the racial and national will created through Nazism with unprecedented elan has made possible a foreign policy by which the fetters of the Versailles Treaty were forced, the freedom to arm regained, and the sovereignty of the whole nation re-established. We have really again become master in our own house and we have created the means of power to remain henceforth that way for all times.... The world should have seen from... Hitler's deeds and words that his aims are not aggressive."

The world, of course, had not the advantage of seeing these various complementary documents of military preparation which I have had the opportunity of putting before the Tribunal.

The next section—and the next point against this defendant—is that both as Minister of Foreign Affairs and as one of the inner circle of the Führer's advisers on foreign political matters, this defendant participated in the political planning and preparation for acts of aggression against Austria, Czechoslovakia, and other nations.

If I might first put the defendant's policy in a sentence, I would say that it can be summarized as breaking one treaty only at a time. He himself put it—if I may say so—slightly more pompously but to the same effect in a speech before the Academy of German Law on the 30th of October 1937, which appears in *Das Archiv*, October 1937, Page 921, and which the Tribunal will find in the document book on Page 73. The underlining (italics) is mine:

"In recognition of these elementary facts the Reich Cabinet has always interceded *in favor of treating every concrete international problem within the scope of methods especially suited to it; not to complicate it unnecessarily by involvement with other problems; and, as long as problems between only two powers are concerned, to choose the direct way for an immediate understanding between these two powers. We are in a position to state that this method has fully proved itself good not only in the German interest, but also in the general interest.*"

The only country whose interests are not mentioned are the other parties to the various treaties that were dealt with in that way; and the working out of that policy can readily be shown by looking at the tabulated form of the actions of this defendant when he was Foreign Minister or during the term of his immediate successor when the defendant still was purported to have influence.

In 1935 the action was directed against the Western Powers. That action was the rearmament of Germany. When that was going on another country had to be reassured. At that time it was Austria, with the support of Italy—which Austria still had up to 1935. And so you get the fraudulent assurance, the essence of the technique,

in that case given by Hitler, on the 21st of May 1935. And that is shown clearly to be false, by the documents which Mr. Alderman put in—I give the general reference to the transcript on Pages 534 to 545 (Volume II, Pages 388 to 398). Then, in 1936, you still have the action necessary against the Western Powers in the occupation of the Rhineland. You still have a fraudulent assurance to Austria in the treaty of the 11th of July of that year; and that is shown to be fraudulent by the letters from the Defendant Von Papen, Exhibits USA-64 (Document 2247-PS) and 67 (Document 2246-PS), to one of which my friend Major Barrington has just referred.

Then in 1937 and 1938 you move on a step and the action is directed against Austria. We know what that action was. It was absorption, planned, at any rate finally, at the meeting on the 5th of November 1937; and action taken on the 11th of March 1938.

Reassurance had to be given to the Western Powers, so you have the assurance to Belgium on the 13th of October 1937, which was dealt with by my friend Mr. Roberts. The Tribunal will find the references in Pages 1100 to 1126 (Volume III, Pages 289 to 307) of the transcript.

We move forward a year and the object of the aggressive action becomes Czechoslovakia. Or I should say we move forward 6 months to a year. There you have the Sudetenland obtained in September; the absorption of the whole of Bohemia and Moravia on the 15th of March 1939.

Then it was necessary to reassure Poland; so an assurance to Poland is given by Hitler on the 20th of February 1938, and repeated up to the 26th of September 1938. The falsity of that assurance was shown over and over again in Colonel Griffith-Jones' speech on Poland, which the Tribunal will find in the transcript at Pages 966 to 1060 (Volume II, Pages 195 to 261).

Then finally, when they want the action as directed against Poland in the next year for its conquest, assurance must be given to Russia, and so a non-aggression pact is entered into on the 23rd of August 1939, as shown by Mr. Alderman, at Pages 1160 to 1216 (Volume III, Pages 328 to 366).

With regard to that tabular presentation, one might say, in the Latin tag, *res ipsa oquitur*. But quite a frank statement from this defendant with regard to the earlier part of that can be found in the account of his conversation with the United States Ambassador, Mr. Bullitt, on the 18th of May 1936, which is on Page 74 of the document book, Document L-150, Exhibit USA-65; and if I might read the first paragraph after the introduction which says that he called on this defendant, Mr. Bullitt remarks:

"Von Neurath said that it was the policy of the German Government to do nothing active in foreign affairs until 'the

Rhineland had been digested.' He explained that he meant that, until the German fortifications had been constructed on the French and Belgian frontiers, the German Government would do everything possible to prevent rather than encourage an outbreak by the Nazis in Austria and would pursue a quiet line with regard to Czechoslovakia. 'As soon as our fortifications are constructed and the countries of Central Europe realize that France cannot enter German territory at will, all those countries will begin to feel very differently about their foreign policies and a new constellation will develop,' he said."

I remind the Tribunal, without citing it, of the conversation referred to by my friend, Major Barrington, a short time ago, between the Defendant Von Papen, as Ambassador, and Mr. Messersmith, which is very much to the same effect.

Then I come to the actual aggression against Austria, and I remind the Tribunal that this defendant was Foreign Minister:

First, during the early Nazi plottings against Austria in 1934. The Tribunal will find these in the transcript at Pages 475 to 489 (Volume II, Pages 352-364), and I remind them generally that that was the murder of Chancellor Dollfuss and the ancillary acts which were afterwards so strongly approved.

Secondly, when the false assurance was given to Austria on the 21st of May 1935, and the fraudulent treaty made on the 11th of July 1936. References to these are Document TC-26, which is Exhibit GB-19, and Document TC-22, which is Exhibit GB-20. The reference in the transcript is at Pages 544 and 545 (Volume II, Page 383).

Third, when the Defendant Von Papen was carrying on his subterranean intrigues in the period from 1935 to 1937. I again give the references so the Tribunal will have it in mind: Document 2247-PS, Exhibit USA-64, letter dated 17 May 1935; and Exhibit USA-67, Document 2246-PS, 1 September 1936. The references in the transcript are Pages 492 (Volume II, Pages 363, 364), 516-518 (Volume II, Pages 372-374), 526-545 (Volume II, Pages 378 to 391), and 553-554 (Volume II, Pages 394, 395).

This Defendant Von Neurath was present when Hitler declared, at the Hossbach interview on the 5th of November 1937, that the German question could only be solved by force and that his plans were to conquer Austria and Czechoslovakia. That is Document 386-PS, Exhibit USA-25, which the Tribunal will find at Page 82. If you will look at the sixth line of Page 82, after the heading, you will see that one of the persons in attendance at this highly

confidential meeting was the Reich Minister for Foreign Affairs, Freiherr von Neurath.

Without reading a document which the Tribunal have had referred to them more than once, may I remind the Tribunal that it is on Page 86 that the passage about the conquest of Austria occurs, and if the Tribunal will look after "2:" and "3:" the next sentence is:

> "For the improvement of our military-political position, it must be our first aim in every case of warlike entanglement to conquer Czechoslovakia and Austria simultaneously, in order to remove any threat from the flanks in case of a possible advance westwards."

That is developed on the succeeding page. The important point is that this defendant was present at that meeting; and it is impossible for him after that meeting to say that he was not acting except with his eyes completely open and with complete comprehension as to what was intended.

Then the next point. During the actual Anschluss he received a note from the British Ambassador dated the 11th of March 1938. That is Document 3045-PS, Exhibit USA-127. He sent the reply contained in Document 3287-PS, Exhibit USA-128. If I might very briefly remind the Tribunal of the reply, I think all that is necessary—and of course the Tribunal have had this document referred to them before—is at the top of Page 93. I wish to call attention to two obvious untruths.

The Defendant Von Neurath states in the sixth line:

> "It is untrue that the Reich used forceful pressure to bring about this development, especially the assertion, which was spread later by the former Federal Chancellor, that the German Government had presented the Federal President with a conditional ultimatum. It is a pure invention."

According to the ultimatum, he had to appoint a proposed candidate as Chancellor to form a Cabinet conforming to the proposals of the German Government. Otherwise the invasion of Austria by German troops was held in prospect.

> "The truth of the matter is that the question of sending military or police forces from the Reich was only brought up when the newly formed Austrian Cabinet addressed a telegram, already published by the press, to the German Government, urgently asking for the dispatch of German troops as soon as possible, in order to restore peace and order and to avoid bloodshed. Faced with the imminent danger of a bloody civil war in Austria, the German Government then decided to comply with the appeal addressed to it."

Well, as I said, My Lord, these are the two most obvious untruths, and all one can say is that it must have, at any rate, given this defendant a certain macabre sort of humor to write that, when the truth was, as the Tribunal know it from the report of Gauleiter Rainer to Bürckel, which has been put in before the Tribunal as Document 812-PS, Exhibit USA-61, and when they have heard, as they have at length, the transcripts of the Defendant Göring's telephone conversation with Austria on that day, which is Document 2949-PS, Exhibit USA-76, and the entries of the Defendant Jodl's diary for the 11th, 13th, and 14th of February, which is Document 1780-PS, Exhibit USA-72.

In this abundance of proof of the untruthfulness of these statements the Tribunal may probably think that the most clear and obvious correction is in the transcription of the Defendant Göring's telephone conversations, which are so amply corroborated by the other documents.

The Prosecution submits that it is inconceivable that this defendant who, according to the Defendant Jodl's diary—may I ask the Tribunal just to look at Page 116 of the document book, the entry in the Defendant Jodl's diary for the 10th of March, so that they have this point quite clear? It is the third paragraph, and it says:

"At 1300 hours General Keitel informs Chief of Operational Staff, Admiral Canaris. Ribbentrop is being detained in London. Neurath takes over the Foreign Office."

I submit that it is inconceivable when this defendant had taken over the Foreign Office, was dealing with the matter, and as I shall show the Tribunal in a moment, co-operating with the Defendant Göring to suit the susceptibilities of the Czechs, that he should have been so ignorant of the truth of events and what really was happening as to write that letter in honor and good faith.

His position can be shown equally clearly by the account which is given of him in the affidavit of Mr. Messersmith, Document 2385-PS, Exhibit USA-68. If the Tribunal will look at Page 107 of the document book, I remind them of that entry which exactly describes the action and style of activity of this defendant at this crisis. Two-thirds of the way down the page the paragraph begins:

"I should emphasize here in this statement that the men who made these promises were not only the dyed-in-the-wool Nazis, but more conservative Germans who already had begun willingly to lend themselves to the Nazi program.

"In an official dispatch to the Department of State from Vienna, dated 10 October 1935, I wrote as follows:

" 'Europe will not get away from the myth that Neurath, Papen, and Mackensen are not dangerous people, and that

they are "diplomats of the old school." They are in fact servile instruments of the regime, and just because the outside world looks upon them as harmless they are able to work more effectively. They are able to sow discord just because they propagate the myth that they are not in sympathy with the regime.' "

THE PRESIDENT: The Tribunal will adjourn now.

[The Tribunal adjourned until 24 January 1946 at 1000 hours.]

FORTY-SECOND DAY

Thursday, 24 January 1946

Morning Session

MARSHAL (Colonel Charles W. Mays): If it please Your Honor, the Defendant Streicher and the Defendant Kaltenbrunner are absent this morning due to illness.

SIR DAVID MAXWELL-FYFE: May it please the Tribunal, before the Tribunal adjourned, I was dealing with the share of the Defendant Neurath in the aggression against Austria. Before I proceed to the next stage, I should like the Tribunal, if it be so kind, to look at the original exhibit to which I am referred, Document 3287-PS, Exhibit USA-128, which is the letter from this defendant to Sir Nevile Henderson, who was then the British Ambassador. The only point in which I would be grateful is if the Tribunal would note Page 92 of the document book. When I say original, that is a certified copy certified by the British Foreign Office, but the Tribunal will see that the heading is from the President of the Secret Cabinet Council. That is the point that the Tribunal will remember. The question was raised as to the existence or activity of that body and the letterhead is from the defendant in that capacity.

The next stage in the Austrian aggression is that at the time of the occupation of Austria, this defendant gave the assurance to M. Mastny, the Ambassador of Czechoslovakia to Berlin, regarding the continued independence of Czechoslovakia. That is one document at Page 123, TC-27, which I have already put in as Exhibit GB-21. It was to Lord Halifax, who was then Foreign Secretary; and if I may read the second paragraph just to remind the Tribunal of the circumstances in which it was written, M. Masaryk says:

> "I have in consequence been instructed by my Government to bring to the official knowledge of His Majesty's Government the following facts: Yesterday evening (the 11th of March) Field Marshal Göring made two separate statements to M. Mastny, the Czechoslovak Minister in Berlin, assuring him that the developments in Austria will in no way have any detrimental influence on the relations between the German Reich and Czechoslovakia, and emphasizing the continued

earnest endeavor on the part of Germany to improve those mutual relations."

And then there are the particulars of the way it was put to Defendant Göring, which have been brought to the Tribunal's attention several times, and I shall not do it again. The 6th paragraph begins: "M. Mastny was in a position to give him definite and binding assurances on this subject"—that is, to give the Defendant Göring on the Czech mobilization—and then it goes on:

"...and today spoke with Baron Von Neurath, who, among other things, assured him on behalf of Herr Hitler that Germany still considers herself bound by the German-Czechoslovak Arbitration Convention concluded at Locarno in October 1925."

In view of the fact that the Defendant Von Neurath had been present at the meeting on the 5th of November, 4 months previously, when he had heard Hitler's views on Czechoslovakia—and that it was only 6 months before that really negotiated treaty was disregarded at once—that paragraph, in my submission, is an excellent example on the technique of which this defendant was the first professor.

I now come to the aggression against Czechoslovakia. On 28 May 1938 Hitler held a conference of important leaders including Beck, Von Brauchitsch, Raeder, Keitel, Göring, and Ribbentrop at which Hitler affirmed that preparations should be made for military action against Czechoslovakia by October; and it is believed, though not—I say frankly—confirmed, that the Defendant Von Neurath attended. The reference of that meeting is in the transcript of Pages 742 and 743 (Volume III, Page 42).

THE PRESIDENT: Sir David, is there any evidence?

SIR DAVID MAXWELL-FYFE: No. Your Lordship will remember the documents, a long series of them, and it does not state who was present; therefore, I express that and put it with reserve.

On the 4th of September 1938 the government of which Von Neurath was a member enacted a new Secret Reich Defense Law which defined various official responsibilities in clear anticipation of war. This law provided, as did the previous Secret Reich Defense Law, for a Reich Defense Council as a supreme policy board for war preparations. The Tribunal will remember that I have already referred them to Document 2194-PS, Exhibit USA-36, showing these facts. Then there came the Munich Agreement of 29 September 1938, but in spite of that, on the 14th of March 1939 German troops marched into Czechoslovakia; and the proclamation to the German people and the order to the Wehrmacht is Document TC-50, Exhibit GB-7, which the Tribunal will find at

Page 124, which has already been referred to and I shall not read it again.

On the 16th of March 1939 the German Government, of which Von Neurath was still a member, promulgated the "Decree of the Führer and Reich Chancellor on the Establishment of the Protectorate 'Bohemia and Moravia.'" That date is the 16th of March. That is at Page 126 of the document book, TC-51, Exhibit GB-8.

If I may leave that for the moment, I will come back to it in dealing with the setting up of the Protectorate. I will come back in a moment and read Article 5. But taking the events in the order of time, the following week the Defendant Von Ribbentrop signed a treaty with Slovakia, which is at Page 129 (Document 1439-PS, Exhibit GB-135); and the Tribunal may remember Article 2 of that treaty, which is:

> "For the purpose of making effective the protection undertaken by the German Reich, the German Armed Forces shall have the right at all times to construct military installations and to keep them garrisoned in the strength they deem necessary in an area delimited on its western side by the frontiers of the State of Slovakia, and on its eastern side by a line formed by the eastern rims of the Lower Carpathians, the White Carpathians, and the Javornik Mountains.
>
> "The Government of Slovakia will take the necessary steps to assure that the land required for these installations shall be conveyed to the German Armed Forces. Furthermore, the Government of Slovakia will agree to grant exemption from custom duties for imports from the Reich for the maintenance of the German troops and the supply of military installations."

The Tribunal will appreciate that the ultimate objective of Hitler's policy disclosed at the meeting at which this defendant was present on the 5th of November 1937, that is the resumption of the "Drang nach Osten" and the acquisition of Lebensraum in the East, was obvious from the terms of this treaty as it has been explicit in Hitler's statement.

Then we come to the pith of this criminality. By accepting and occupying the position of Reich Protector of Bohemia and Moravia, the Defendant Von Neurath personally adhered to the aggression against Czechoslovakia and the world. He further actively participated in the conspiracy of world aggression and he assumed a position of leadership in the execution of policies involving violating the laws of war and the commission of crimes against humanity.

The Tribunal will appreciate that I am not going to trespass on the ground covered by my colleagues and go into the crimes. I want

to show quite clearly to the Tribunal the basis for these crimes which was laid by the legal position which this defendant assumed.

The first point. The Defendant Von Neurath assumed the position of Protector under a sweeping grant of powers. The act creating the Protectorate provided—if the Tribunal would be good enough to turn back on Page 126 in the document book (TC-51, Exhibit GB-8) and look at Article V of the Act, it reads as follows:

"1. As trustee of Reich interests, the Führer and Chancellor of the Reich nominates a 'Reich Protector in Bohemia and Moravia' with Prague as his seat of office.

"2. The Reich Protector, as representative of the Führer and Chancellor of the Reich and as Commissioner of the Reich Government, is charged with the duty of seeing to the observance of the political principles laid down by the Führer and Chancellor of the Reich.

"3. The members of the Government of the Protectorate shall be confirmed by the Reich Protector. The confirmation may be withdrawn.

"4. The Reich Protector is entitled to inform himself of all measures taken by the Government of the Protectorate and to give advice. He can object to measures calculated to harm the Reich and, in case of danger in delay, issue ordinances required for the common interest.

"5. The promulgation of laws, ordinances, and other legal provisions and the execution of administrative measures and legal judgments shall be deferred if the Reich Protector enters an objection."

At the very outset of the Protectorate the Defendant Von Neurath's supreme authority was implemented by a series of basic decrees of which I ask the Tribunal to take judicial notice. They established the alleged legal foundation for the policy and program which resulted, all aimed towards the systematic destruction of the national integrity of the Czechs:

1. By granting the "racial Germans" in Czechoslovakia a supreme order of citizenship—and I give the official reference to the Decree of the Führer and Reich Chancellor concerning the Protectorate to which I just referred—and then;

2. An act concerning the representation in the Reichstag of Greater Germany by German nationals resident in the Protectorate, 13 April 1939;

3. An order concerning the acquisition of German citizenship by former Czechoslovakian citizens of German stock, 20 April 1939.

Then there was a series of decrees that granted "racial Germans" in Czechoslovakia a preferred status at law and in the courts:

1. An order concerning the Exercise of Criminal Jurisdiction in the Protectorate of Bohemia and Moravia, 14 April 1939;

2. An order concerning the Exercise of Jurisdiction in Civil Proceedings, 14 April 1939;

3. An order concerning the Exercise of Military Jurisdiction, on 8 May 1939.

Then the orders also granted to the Protector broad powers to change by decree the autonomous law of the Protectorate. That is contained in the Ordinance on Legislation in the Protectorate, 7 June 1939.

And finally the Protector was authorized to go with the Reich Leader SS and the Chief of the German Police to take, if necessary, such police measures which go beyond the limits usually valid for police measures.

In view of the form of the order itself the Tribunal, if it cares to listen and to take judicial notice of this, in the *Reichsgesetzblatt* we have found inserted that one in the document book at Page 131, which rather staggers the imagination to know what can be police measures even beyond the limits usually valid for police measures when one has seen police measures in Germany between 1933 and 1939. But if such increase was possible, and presumably it was believed to be possible, then an increase was given by the Defendant Von Neurath and used by him for coercion of the Czechs.

The declared basic policy of the Protectorate was concentrated upon the central objective of destroying the identity of the Czechs as a nation and absorbing their territory into the Reich; and if the Tribunal will be good enough to turn to Page 132, they will find Document Number 862-PS, Exhibit USA-313, and I think that has been read to the Tribunal. Still, the Tribunal might bear with me so that I might indicate the nature of the document to them.

This memorandum is signed by Lieutenant General of Infantry Friderici. It is headed "The Deputy General of the Armed Forces with the Reich Protector in Bohemia and Moravia." It is marked "Top Secret," dated 15 October 1940. That is practically a year before this Defendant Von Neurath went on leave, as he puts it, on 27 September 1941; and it is called the "Basic Political Principles in the Protectorate," and there are four copies. It also had gone to the Defendant Keitel and the Defendant Jodl, and it begins: "On 9 October of this year"—that is 1940:

> "On 9 October of this year the Office of the Reich Protector held an official conference in which State Secretary SS Gruppenführer K. H. Frank"—that is not the Defendant Frank, it is the other K. H. Frank—"spoke about the following:

"Since creation of the Protectorate of Bohemia and Moravia, party agencies, industrial circles, as well as agencies of the central authorities of Berlin have been considering the solution of the Czech problem.

"After careful deliberation, the Reich Protector expressed his view about the various plans in a memorandum. In this, three possibilities of solution were indicated:

"a. German infiltration of Moravia and withdrawal of the Czech part of the people to a remainder of Bohemia. This solution is considered as unsatisfactory, because the Czech problem, even if in a diminished form, will continue to exist.

"b. Many arguments can be brought up against the most radical solution, namely, the deportation of all Czechs. Therefore the memorandum comes to the conclusion that it cannot be carried out within a reasonable space of time.

"c. Assimilation of the Czechs, that is, absorption of about half of the Czech people by the Germans, to the extent that it is of importance from a racial or other standpoint. This will be brought about, among other things, also by increasing the Arbeitseinsatz of the Czechs in the Reich territory, with the exception of the Sudeten German border districts—in other words, by dispersing the block of Czech people. The other half of the Czech nationality must by all possible ways be deprived of its power, eliminated, and shipped out of the country. This applies particularly to the racially mongoloid parts and to the major part of the intellectual class. The latter can scarcely be converted ideologically and would represent a burden by constantly making claims for the leadership over the other Czech classes and thus interfering with a rapid assimilation.

"Elements which counteract the planned Germanization are to be handled roughly and should be eliminated.

"The above development naturally presupposes an increased influx of Germans from the Reich territory into the Protectorate.

"After a report, the Führer has chosen solution c (assimilation) as a directive for the solution of the Czech problem and decided that, while keeping up the autonomy of the Protectorate outwardly, Germanization will have to be carried out uniformly by the Office of the Reich Protector for years to come.

"From the above no specific conclusions are drawn by the Armed Forces. It is the way that has always been followed. In this connection, I refer to my memorandum which was

sent to the Chief of the Supreme Command of the Armed Forces, dated 12 July 1939, entitled 'The Czech Problem.'"

And that is signed, as I said, by the Deputy Lieutenant General of the Armed Forces.

That view of the Reich Protector was accepted and formed a basis of his policy. The result was a program of consolidating German control over Bohemia and Moravia by the systematic oppression of the Czechs through the abolition of civil liberties and the systematic undermining of the native political, economic, and cultural structure by a regime of terror, which will be dealt with by my Soviet Union colleagues. They will show clearly, I submit, that the only protection given by this defendant was a protection to the perpetrators of innumerable crimes.

I have already drawn the attention of the Tribunal to the many honors and rewards which this defendant received as his worth, and it might well be said that Hitler showered more honors on Von Neurath than on some of the leading Nazis who had been with the Party since the very beginning. His appointment as President of the newly created Secret Cabinet Council in 1938 was in itself a new and singular distinction. On 22 September 1940 Hitler awarded him the War Merit Cross 1st Class as Reich Protector for Bohemia and Moravia. That is in the Deutsches Nachrichtenbüro, 22 September 1940.

He was also awarded the Golden Badge of the Party and was promoted by Hitler, personally, from the rank of Gruppenführer to Obergruppenführer in the SS on 21 June 1943. And I also inform the Tribunal that he and Ribbentrop were the only two Germans to be awarded the Adlerorden, a distinction normally reserved for foreigners. On his seventieth birthday, 2 February 1943, it was made the occasion for most of the German newspapers to praise his many years of service to the Nazi regime. This service, as submitted by the Prosecution, may be summed up in two ways:

1) He was an internal Fifth Columnist among the Conservative political circles in Germany. They had been anti-Nazi but were converted in part by seeing one of themselves, in the person of this defendant, wholeheartedly with the Nazis;

2) His previous reputation as a diplomat made public opinion abroad slow to believe that he would be a member of a cabinet which did not stand by its words and assurances. It was most important for Hitler that his own readiness to break every treaty or commitment should be concealed as long as possible, and for this purpose he found in the Defendant Von Neurath his handiest tool.

That concludes the presentation against the Defendant Von Neurath.

THE PRESIDENT: In view of the motion which was made yesterday by Counsel for the Defendant Hess, the Tribunal will postpone the presentation of the individual case against Hess, and will proceed with the presentation of the case by counsel for France.

M. CHARLES DUBOST (Deputy Chief Prosecutor for the French Republic): When stating the charges which now weigh upon the defendants, my British and American colleagues showed evidence that these men conceived and executed a plan and plot for the domination of Europe. They have shown you of what crimes against peace these men became guilty by launching unjust wars. They have shown you that, as leaders of Nazi Germany, they had all premeditated unjust wars, and had participated in the conspiracy against peace.

Then my friends and colleagues of the French Delegation, M. Herzog, M. Faure and M. Gerthoffer, submitted documents establishing that the defendants, who all in various positions counted among the leaders of Nazi Germany, are responsible for the repeated violations of the laws and customs of war committed by men of the Reich in the course of military operations. However, it still remains for us to expose the atrocities of which men, women, and children of the occupied countries of the west were victims.

We intend at this point to prove that the defendants, in their capacity as leaders of Hitlerite Germany, systematically pursued a policy of extermination, the cruelty of which increased from day to day until the final defeat of Germany; that the defendants planned, conceived, willed, and prescribed these atrocities as part of a system which was to enable them to accomplish a political aim. It is this political aim which closely binds all the facts we intend to present to you. The crimes perpetrated against people and property, as presented so far by my colleagues of the French Prosecution, were in close connection with the war. They had the distinct character of war crimes *stricto sensu*. Those which I shall present to you surpass them both in meaning and extent. They form part of the plans of a policy of domination, of expansion, beyond war itself.

It is Hitler himself who gave the best definition of this policy in one of his speeches in Munich on 16 May 1927. He was deceiving his listeners about the danger that France, an agricultural country of only 40 million inhabitants, might represent for Germany, which was already a highly-industrialized country with a population of nearly 70 million. That day Hitler said:

> "There is only one way for Germany to escape encirclement; and it is the destruction of the state which, by the natural order of things, will always be her mortal enemy: that is

France. When a nation is aware that its whole existence is endangered by an enemy, it must aim at one thing only: the annihilation of that enemy."

During the first months that followed their victory, the Germans seemed to have abandoned their plan of annihilation; but this was only a tactical pretense. They hoped to draw into their war against England and the Union of the Soviet Socialist Republics the western nations they had enslaved. By doses of treachery and violence, they attempted to make these western nations take the road of collaboration. The latter resisted; and the defendants then abandoned their tactics and came back to their big scheme, the annihilation of conquered peoples in order to secure in Europe the space necessary for the 250 million Germans whom they hoped to settle there in generations to come.

This destruction, this annihilation—I repeat the very words used by Hitler in his speech—was undertaken under various pretenses; the elimination of inferior, or negroid races; the extermination of bolshevism; the destruction of Jewish-Masonic influences hostile to the founding of the pseudo "New European Order."

In fact, this destruction, this elimination, conduced to the assassination of the elite and vital forces opposed to the Nazis; it also led to the reduction of the means of livelihood of the enslaved nations.

All of this was done, as I shall prove to you, in execution of a deliberate plan, the existence of which is confirmed, among other things, by the repetition and the immutability of the same facts in all the occupied countries.

Faced with this repetition and this immutability, it is no longer possible to claim that only the one who performed the crime was guilty. This repetition and this immutability prove that the same criminal will united all the members of the German Government, all the leaders of the German Reich.

It is from this common will that the official policy of terrorism and extermination, which directed the strokes of the executioners, was born; and it is for having participated in the creation of this common will that each of the defendants here present has been placed in the ranks of major war criminals.

I shall come back to this point when, having finished my presentation of the facts, I shall have to qualify the crime, in accordance with the legal tradition of my country.

Allow me to give you some indications as to how, with your kind permission, I intend to make my presentation.

The facts I am to prove here are the results of many testimonies. We could have called innumerable witnesses to this stand. Their

statements have been collected by the French Office for Inquiry into War Crimes. It seemed to us that it would simplify and shorten the procedure if we were to give you extracts only from the testimony that we have received in writing.

With your authorization, therefore, I shall limit myself to reading excerpts from the written testimonies collected in France by official organizations qualified to investigate War Crimes. However, if in the course of this presentation it appears necessary to call certain witnesses, we shall proceed to do so but with constant care not to slow down the sessions in any way and to bring them with all speed to the only possible conclusion, the one our peoples expect.

The whole question of atrocities is dominated by the German terrorist policy. Under this aspect it is not without precedent in the Germanic practice of war. We all remember the execution of hostages at Dinant during the war of 1914, the execution of hostages in the citadel of Laon, or the hostages of Senlis. But Nazism perfected this terrorist policy; for Nazism, terror is a means of subjugation. We all remember the propaganda picture about the war in Poland, shown in Oslo in particular on the eve of the invasion of Norway. For Nazism, terror is a means of subjugating all enslaved people in order to submit them to the aims of its policy.

The first signs of this terrorist policy during the occupation are fresh in the memory of all Frenchmen. Only a few months after the signing of the armistice they saw red posters edged with black appear on the walls of Paris, as well as in the smallest villages of France, proclaiming the first execution of hostages. We know mothers who were informed of the execution of their sons in this way. These executions were carried out by the occupiers after anti-German incidents. These incidents were the answer of the French people to the official policy of collaboration. Resistance to this policy stiffened, became organized, and with it the repressive measures increased in intensity until 1944—the climax of German terrorism in France and in the countries of the West. At that time the Army and the SS Police no longer spoke of the execution of hostages; they organized real reprisal expeditions during which whole villages were set on fire, and thousands of civilians killed, or arrested and deported. But before reaching this stage, the Germans attempted to justify their criminal exactions in the eyes of a susceptible public opinion. They promulgated, as we shall prove, a real code of hostages, and pretended they were merely complying with law every time they proceeded to carry out reprisal executions.

The taking of hostages, as you know, is prohibited by Article 50 of the Hague Convention. I shall read this text to you. It is to be found in the Fourth Convention, Article 50:

"No collective penalty, pecuniary or other, can be decreed against populations for individual acts for which they cannot be held jointly responsible." (Document Number RF-265).

And yet, supreme perfidy! The German General Staff, the German Government, will endeavor to turn this regulation into a dead letter and to set up as law the systematic violation of the Hague Convention.

I shall describe to you how the General Staff formed its pseudo-law on hostages, a pseudo-law which in France found its final expression in what Stülpnagel and the German administration called the "hostages code." I shall show you, in passing, which of these defendants are the most guilty of this crime.

On the 15th of February 1940 in a secret report addressed to the Defendant Göring, the OKW justifies the taking of hostages, as proved by the excerpt from Document Number 1585-PS which I propose to read to you. This document is dated Berlin, 15 February 1940. It bears the heading: "Supreme Command of the Armed Forces. Secret. To the Reich Minister for Aviation and Supreme Commander of the Air Force."

"Subject: Arrest of Hostages.

"According to the opinion of the OKW, the arrest of hostages is justified in all cases in which the security of the troops and the carrying out of their orders demand it. In most cases it will be necessary to have recourse to it in case of resistance or an untrustworthy attitude on the part of the population of an occupied territory, provided that the troops are in combat or that a situation exists which renders other means of restoring security insufficient....

"In selecting hostages it must be borne in mind that their arrest shall take place only if the refractory sections of the population are anxious for the hostages to remain alive. The hostages shall therefore be chosen from sections of the population from which a hostile attitude may be expected. The arrest of hostages shall be carried out among persons whose fate, we may suppose, will influence the insurgents."

This document is filed by the French Delegation as Exhibit Number RF-267.

To my knowledge, Göring never raised any objection to this thesis. Here is one more paragraph from an order, Document Number F-508 (Exhibit Number RF-268), from the Commander-in-Chief of the Army in France, administrative section, signed "Stroccius," 12 September 1940. Three months after the beginning of the occupation, the hostages are defined therein as follows:

"Hostages are inhabitants of a country who guarantee with their lives the impeccable attitude of the population. The

responsibility for their fate is thus placed in the hands of their compatriots. Therefore, the population must be publicly threatened that the hostages will be held responsible for hostile acts of individuals. Only French citizens may be taken as hostages. The hostages can be held responsible only for actions committed after their arrest and after the public proclamation."

This ordinance cancels 5 directives prior to 12 September 1940. This question was the subject of numerous texts, and two General Staff ordinances, dated, as indicated at the head of the Document Number F-510 (Exhibit Number RF-269), 2 November 1940 and 13 February 1941:

"If acts of violence are committed by the inhabitants of the country against members of the occupation forces, if offices and installations of the Armed Forces are damaged or destroyed, or if any other attacks are directed against the security of German units and service establishments, and if, under the circumstances, the population of the place of the crime or of the immediate neighborhood can be considered as jointly responsible for those acts of sabotage, measures of prevention and expiation may be ordered by which the civil population is to be deterred in future from committing, encouraging, or tolerating acts of that kind. The population is to be treated as jointly responsible for individual acts of sabotage, if by its attitude in general towards the German Armed Forces, it has favored hostile or unfriendly acts of individuals, or if by its passive resistance against the investigation of previous acts of sabotage, it has encouraged hostile elements to similar acts, or otherwise created a favorable atmosphere for opposition to the German occupation. All measures must be taken in a way that it is possible to carry out. Threats that cannot be realized give the impression of weakness."

I submit these two documents as Exhibit Number RF-268 and 269 (Documents Number F-508 and F-510).

Until now we have not found any trace in these German texts of an affirmation which might lead one to think that the taking of hostages and their execution constitute a right for the occupying power; but here is a German text which explicitly formulates this idea. It is quoted in your book of documents as Document Number F-507 (Exhibit Number RF-270), dated Brussels, 18 April 1944. It is issued by the Chief Judge to the military Commander-in-Chief in Belgium and the North of France; and it is addressed to the German Armistice Commission in Wiesbaden. It reads in the margin: "Most

Secret. Subject: Execution of 8 terrorists in Lille on 22 December 1943. Reference: Your letter of 16 March 1944 Lille document." You will read in the middle of Paragraph 2 of the text:

> "...Moreover, I maintain my point of view that the legal foundations for the measures taken by the Oberfeldkommandantur of Lille, by virtue of the letter of my police group of the 2d of March 1944, are, regardless of the opinion of the Armistice Commission, sufficiently justified and further explanations are superfluous. The Armistice Commission is in a position to declare to the French, if it wishes to go into the question in detail at all, that the executions have been carried out in conformity with the general principles of the law concerning hostages."

It is, therefore, quite obviously a state doctrine which is involved. Innocent people become forfeit. They answer with their lives for the attitude of their fellow-citizens towards the German Army. If an offense is committed of which they are completely ignorant, they are the object of a collective penalty possibly entailing death. This is the official German thesis imposed by the German High Command, in spite of the protests of the German Armistice Commission in Wiesbaden. I say: A thesis imposed by the German High Command, and I will produce the evidence. Keitel, on the 16th of September 1941, signed a general order which has already been read and filed by my American colleagues under Document Number 389-PS (Exhibit Number RF-271) and which I shall begin to explain. This order concerns all the occupied territories of the East and the West, as established by the list of addresses which includes all the military commanders of the countries then occupied by Germany: France, Belgium, Norway, Holland, Denmark, eastern territories, Ukraine, Serbia, Salonika, southern Greece, Crete. This order was in effect for the duration of the war. We have a text of 1944 which refers to it. This order of Keitel, Chief of the OKW, is dictated by a violent spirit of anti-Communist repression. It aims at all kinds of repression of the civilian population.

This order, which concerns even the commanders whose troops are stationed in the West, points out to them that in all cases in which attacks are made against the German Army:

> "It is necessary to establish that we are dealing with a mass movement uniformly directed by Moscow to which may also be imputed the seemingly unimportant sporadic incidents which have occurred in regions which have hitherto remained quiet."

Consequently Keitel orders, among other things, that 50 to 100 Communists are to be put to death for each German soldier killed. This is a political conception which we constantly meet in

all manifestations of German terrorism. As far as Hitlerite propaganda is concerned, all resistance to Germany is of Communist inspiration, if not in essence Communist. The Germans thereby hoped to eliminate from among the resistance the nationalists whom they thought hostile to Communism. But the Nazis also pursued another aim: They still hoped above all to divide France and the other conquered countries of the West into two hostile factions and to put one of these factions at their service under the pretext of anti-Communism.

THE PRESIDENT: Would that be a convenient time to break off for 10 minutes?

[A recess was taken.]

M. DUBOST: Keitel confirmed this order concerning hostages on 24 September 1941. We submit it as Exhibit Number RF-272, and you will find it in your document book as F-554. I shall read you the first paragraph:

> "Following instructions by the Führer, the Supreme Command of the Armed Forces issued on 16 September 1941 an order concerning the Communist revolutionary movements in the occupied territories. The order was addressed to the Ministry for Foreign Affairs for the attention of Ambassador Ritter. It also deals with the question of capital punishment in court-martial proceedings.
>
> "According to the order, in the future, most stringent measures must be taken in the occupied territories."

The choice of hostages is also indicated thus in Document Number 877-PS, which has already been read to you and which is previous to the aggression of Germany against Russia. It is necessary to remind the Tribunal of this document because it shows the premeditation of the German Command and the Nazi Government to divide the occupied countries, to take away from the partisan resistance all its patriotic character, in order to substitute for it a political character which it never had. We submit this document under Exhibit Number RF-273:

> "In this connection it must be borne in mind that, apart from other adversaries with whom our troops have to contend, there is a particularly dangerous element of the civilian population which is destructive of all order and propagates Jewish-Bolshevist philosophy. There is no doubt that, wherever he possibly can, this enemy uses this weapon of disintegration cunningly and in ambush against the German forces which are fighting and liberating the country."

This document is an official document issued by the headquarters of the High Command of the Army. It expresses the general doctrine of all the German Staff. It is Keitel who presides over the formation of this doctrine. He is therefore not only a soldier under the orders of his government; but at the same time that he is a general, he is also a Nazi politician whose acts are those of a war leader and also those of a politician serving the Hitlerite policy. You have proof of it in the document which I have just read to you: A general who is also a politician, in whom both politics and the conduct of war are combined in one single preoccupation. This is not surprising for those who know the German line of thought, which had never separated war and politics. Was it not Clausewitz who said that war was only the continuation of politics by other means?

This is doubly important. This constitutes a direct and crushing charge against Keitel; but Keitel is the German General Staff. Now this organization is indicted, and we see by this document that this indictment is justified as the German General Staff dabbled in the criminal policy of the German Cabinet.

In the case of France, the general orders of Keitel were adapted by Stülpnagel in his order of 30 September 1941, better known in France under the name of "hostages code," which repeats and specifies in detail the previous order, namely that of 23 August 1941. This order of 30 September 1941 is of major importance to anyone who wishes to prove under what circumstances French hostages were shot. This is why I shall be obliged to read large extracts. It defines, in Paragraph 3, the categories of Frenchmen who will be considered as hostages. I shall read this document 1588-PS, which I submit to the Tribunal as Exhibit Number RF-274. Paragraph I concerns the seizure of hostages. I read:

"1. On 22 August 1941, I issued the following announcement:

" 'On the morning of 21 August 1941, a member of the German Armed Forces was killed in Paris as a result of a murderous attack. I therefore order that:

" '1. All Frenchmen held in custody of whatever kind, by the German authorities or on behalf of German authorities in France, are to be considered as hostages as from 23 August.

" '2. If any further incident occurs, a number of these hostages are to be shot, to be determined according to the gravity of the attempt.'

"2. On 19 September 1941 by an announcement to the Plenipotentiary of the French Government attached to the Military Commander in France, I ordered that, as from 19 September 1941, all French males who are under arrest of any kind by the French authorities or who are taken into custody because

of Communist or anarchistic agitation are to be kept under arrest by the French authorities also on behalf of the Military Commander in France.

"3. On the basis of my notification of the 22d of August 1941 and of my order of the 19th of September 1941 the following groups of persons are therefore hostages:

"(a) All Frenchmen who are kept in detention of any kind whatsoever by the German authorities, such as police custody, imprisonment on remand, or penal detention.

"(b) All Frenchmen who are kept in detention of any kind whatsoever by the French authority on behalf of the German authorities. This group includes:

"(aa) All Frenchmen who are kept in detention of any kind whatsoever by the French authorities because of Communist or anarchist activities.

"(bb) All Frenchmen on whom the French penal authorities impose prison terms at the request of the German military courts and which the latter consider justified.

"(cc) All Frenchmen who are arrested and kept in custody by the French authorities upon demand of the German authorities or who are being handed over by the Germans to French authorities with the order to keep them under arrest.

"(c) Stateless inhabitants who have already been living for some time in France are to be considered as Frenchmen within the meaning of my notification of the 22d of August 1941....

"III. Release from detention.

"Persons who were not yet in custody on 22 August 1941 or on 19 September 1941 but who were arrested later or are still being arrested are hostages as from the date of detention if the other conditions apply to them.

"The release of arrested persons authorized on account of expiration of sentences, lifting of the order for arrest, or for other reasons will not be affected by my announcement of 22 August 1941. Those released are no longer hostages.

"In as far as persons are in custody of any kind with the French authorities for Communist or anarchist activity, their release is possible only with my approval as I have informed the French Government....

"VI. Lists of hostages.

"If an incident occurs which according to my announcement of 22 August 1941 necessitates the shooting of hostages, the execution must immediately follow the order. The district commanders, therefore, must select for their own districts

from the total number of prisoners (hostages) those who, from a practical point of view, may be considered for execution and enter them on a list of hostages. These lists of hostages serve as a basis for the proposals to be submitted to me in the case of an execution.

"1. According to the observations made so far, the perpetrators of outrages originate from Communist or anarchist terror gangs. The district commanders are, therefore, to select from those in detention (hostages), those persons who, because of their Communist or anarchist views in the past or their positions in such organizations or their former attitude in other ways, are most suitable for execution. In making the selection it should be borne in mind that the better known the hostages to be shot, the greater will be the deterrent effect on the perpetrators, themselves, and on those persons who, in France or abroad, bear the moral responsibility—as instigators or by their propaganda—for acts of terror and sabotage. Experience shows that the instigators and the political circles interested in these plots are not concerned about the life of obscure followers, but are more likely to be concerned about the lives of their own former officials. Consequently, we must place at the head of these lists:

"(a) Former deputies and officials of Communist or anarchist organizations."

Allow me to make a comment, gentlemen. There never were any anarchist organizations represented in parliament, in either of our Chambers; and this paragraph (a) could only refer to former deputies and officials of the Communist organizations, of whom we know, moreover, that some were executed by the Germans as hostages.

"(b) Persons (intellectuals) who have supported the spreading of Communist ideas by word of mouth or writing.

"(c) Persons who have proved by their attitude that they are particularly dangerous.

"(d) Persons who have collaborated in the distribution of leaflets."

One idea is dominant in this selection: "We must punish the elite." In conformity with paragraph (b) of this article, we shall see that the Germans shot a great number of intellectuals, including Solomon and Politzer, in 1941 and 1942, in Paris and in the provincial towns.

I shall come back to these executions later when I give you examples of German atrocities committed in relation to the policy of hostages in France.

"2. Following the same directives, a list of hostages is to be prepared from the prisoners with De Gaullist sympathies.

"3. Racial Germans of French nationality who are imprisoned for Communist or anarchist activity may be included in the list. Special attention must be drawn to their German origin on the attached form.

"Persons who have been condemned to death but who have been pardoned may also be included in the lists....

"5. The lists have to record for each district about 150 persons and for the Greater Paris Command about 300 to 400 people. The district chiefs should always record on their lists those persons who had their last residence or permanent domicile in their districts, because the persons to be executed should, as far as possible, be taken from the district where the act was committed....

"The lists are to be kept up to date. Particular attention is to be paid to new arrests and releases.

"VII. Proposals for executions:

"In case of an incident which necessitates the shooting of hostages, within the meaning of my announcement of 22 August 1941, the district chief in whose territory the incident happened is to select from the list of hostages persons whose execution he wishes to propose to me. In making the selection he must, from the personal as well as local point of view, draw from persons belonging to a circle which presumably includes the guilty."

I skip a paragraph.

"For execution, only those persons who were already under arrest at the time of the crime may be proposed.

"The proposal must contain the names and number of the persons proposed for execution, that is, in the order in which the choice is recommended."

And, at the very end of Paragraph VIII, we read:

"When the bodies are buried, the burial of a large number in a common grave in the same cemetery is to be avoided, in order not to create places of pilgrimage which, now or later, might form centers for anti-German propaganda. Therefore, if necessary, burials must be carried out in various places."

Parallel to this document, concerning France, there exists in Belgium an order of Falkenhausen of 19 September 1941, which you will find on Page 6 of the official report on Belgium, Document Number F-683, which I shall submit as Exhibit Number RF-275.

THE PRESIDENT: Is the Belgian document worded in substantially the same terms as the document you have just read?

M. DUBOST: Exactly.

THE PRESIDENT: Then I do not think you need to read that.

M. DUBOST: As you wish. Then it will not be necessary either to read in entirety the warning of Seyss-Inquart concerning Holland.

I think that by referring to these exhibits in your document book, you will be able to obtain items of evidence which will only confirm what I read to you of Stülpnagel's order.

For Norway and Denmark there is a teletyped letter from Keitel to the Supreme Command of the Navy, dated 30 November 1944, which you will find in the document book, as Document C-48 (Exhibit Number RF-280). I read the end of Paragraph 1:

"Every ship-yard worker must know that any act of sabotage occurring within his sphere of activity entails for him personally or for his relatives, if he disappears, the most serious consequences."

Page 2 of Document Number 870-PS (Exhibit Number RF-281):

"4. I have just received a teletype from Field Marshal Keitel requesting the publication of an order according to which the personnel or, if need be, their near relatives (liability of next of kin) will be held collectively responsible for the acts of sabotage occurring in their factories."

And Terboven, who wrote this sentence, added (and it is he who condemns Marshal Keitel):

"This request only makes sense and will only be successful if I am actually allowed to have executions carried out by shooting."

All these documents will be submitted.

THE PRESIDENT: M. Dubost, do I understand that in Belgium, Holland, in Norway, and in Denmark, there were similar orders or decrees with reference to hostages?

M. DUBOST: Yes, Your Honor, I mean to read those concerning Belgium, Holland, and Norway. For Belgium, for instance, you will find at Page 6, Document Number F-683, which is the official document of the Belgian Ministry of Justice:

"Brussels, 29 November 1945, I, rue de Turin. Decree of Falkenhausen of 19 September 1941.

"In the future, the population must expect that if attacks are made on members of the German Army or the German Police and the culprits cannot be arrested, a number of hostages proportionate to the gravity of the offense, five at a minimum, will be shot if the attack causes death. All political prisoners in Belgium are, with immediate effect, to be considered as hostages."

THE PRESIDENT: M. Dubost, I did not want you to read these documents if they are substantially in the same form as the document you have already read.

M. DUBOST: They are more or less in the same form, Your Honor. I shall submit them because they constitute the proof of the systematic repetition of the same methods to obtain the same results, that is, to cause terror to reign in all the occupied countries of the West. But, if the Tribunal considers it constant and established that these methods were systematically used in all the western regions, naturally I shall spare you the reading of documents which are monotonous and which repeat in substance what was said in the document relating to France.

THE PRESIDENT: Perhaps you had better give us references to the documents which concern Belgium, Holland, Norway, and Denmark.

M. DUBOST: Yes, Your Honor, for Belgium, Document F-683, Page 6, decree of Falkenhausen of 19 September 1941, submitted as Exhibit Number RF-275, as constituting the official report of the Kingdom of Belgium against the principal war criminals.

The second document is C-46, corresponding to UK-42 (24 November 1942), submitted as Exhibit Number RF-276.

For Holland, a warning by Seyss-Inquart, Document Number F-224, which you may feel it necessary for me to read, since Seyss-Inquart is one of the defendants. I submit this document under Exhibit Number RF-279, and I quote:

> "For the destruction or the damaging of railway installations, telephone cables, and post offices I shall make responsible all the inhabitants of the community on whose territory the act is committed.
>
> "The population of these communities must expect that reprisals will be taken against private property and that houses or whole blocks will be destroyed."

THE PRESIDENT: I am afraid I don't know where you are reading. Which paragraph are you reading?

M. DUBOST: I am told, Mr. President, that this document has not been bound with the Dutch report; I shall file it at the end of the hearing, if I may.

THE PRESIDENT: Very well.

M. DUBOST: I quote now another document, the warning of Seyss-Inquart to Holland.

THE PRESIDENT: And that is what number?

M. DUBOST: Number 152 in your document book, concerning German justice, which will be submitted at the hearing tomorrow.

For Norway and Denmark we have several documents which establish that the same policy of execution of hostages was followed. We have, in particular, Document C-48 (Exhibit Number RF-280) from which I read a short time ago.

All those special orders for each of the occupied regions of the West are the result of the general order of Keitel, which my American colleagues have already read and on which I merely gave a comment this morning. The responsibility of Keitel in the development of the policy of execution of hostages is total. He was given warning; German generals even told him that this policy went beyond the aim pursued and might become dangerous.

On 16 September 1942, General Falkenhausen addressed a letter to him, from which I extract the following passage—it is Document Number 1594-PS, which I submit as Exhibit Number RF-283:

"Enclosed is a list of the shootings of hostages which have taken place until now in my area and the incidents on account of which these shootings took place.

"In a great number of cases, particularly in the most serious, the perpetrators were later apprehended and sentenced.

"This result is undoubtedly very unsatisfactory. The effect is not so much deterrent as destructive of the feeling of the population for right and security; the cleft between the people influenced by communism and the remainder of the population is being bridged; all circles are becoming filled with a feeling of hatred toward the occupying forces and effective inciting material is given to enemy propaganda. Thereby military danger and general political reaction of an entirely unwanted nature. . . ."—Signed—"Von Falkenhausen."

I shall now present Document Number 1587-PS from the same German general and he seems to be lucid:

"In addition I wish once more to point out the following:

"In several cases the authors of aggression or acts of sabotage were discovered when the hostages had already been shot, shortly after the criminal acts had been committed, according to the instructions received. Moreover, the real culprits often did not belong to the same circles as the executed hostages. Undoubtedly in such cases the execution of hostages does not inspire terror in the population but indifference to repressive measures and even resentment on the part of some sections of the population who until then had displayed a passive attitude. The result for the occupying power is therefore negative as planned and intended by the English agents, who were often the instigators of these acts. It will therefore be necessary to prolong the delay in cases where the arrest of

the culprits may yet be expected. I therefore request that you leave to me the responsibility for fixing such delays, in order that the greatest possible success in the fight against terrorist acts may be obtained."

THE PRESIDENT: Is it known what the date of that document was?

M. DUBOST: It is after the 16th of September 1941. We do not have the exact date. The document is appended to another document, the date of which is illegible; but it is after Keitel's order since it gives an account of the executions of hostages, carried out in compliance with that order. It points out that after the execution of the hostages the culprits were found; that the effect was deplorable and aroused the resentment of some of the population.

You will find also in this Document Number 1587-PS—but this time an extract from the monthly report of the Commander of the Wehrmacht in the Netherlands—the report for the month of August 1942, a new warning to Keitel:

"B. Special events and the political situation:

"On the occasion of an attempt against a train of soldiers on furlough due to arrive in Rotterdam, a Dutch railway guard was seriously wounded by touching a wire connected with an explosive charge, thus causing an explosion. The following repressive measures were announced in the Dutch press:

"The deadline for the arrest of the perpetrators, with collaboration of the population, is fixed at 14 August, midnight. A reward of 100,000 florins will be made for a denunciation, which will be treated confidentially. If the culprits are not arrested within the time appointed, arrests of hostages are threatened; railway lines will be guarded by Dutchmen.

"Since, despite this summons, the perpetrator did not report and was not otherwise discovered, the following hostages, among whom some had already been in custody for several weeks as hostages, were shot on the order of the Higher SS and Police Führer."

I will pass over the enumeration of the names. I omit the next paragraph.

THE PRESIDENT: Could you read the names and the titles?

M. DUBOST: "Ruys, Willem, Director General, Rotterdam; Count E.O.G. Van Limburg-Stirum, Arnhem; M. Baelde, Robert, Doctor of Law, Rotterdam; Bennenkers, Christoffel, former Inspector General of the Police at Rotterdam; Baron Alexander Schimmelpennink Van der Oye, Noordgouwe (Seeland)." One paragraph further on:

"Public opinion was particularly affected by the execution of these hostages. Reports at hand express the opinion that, from the beginning of the occupation, no stroke inflicted by the Germans was more deeply felt. Many anonymous letters, and even some signed ones, sent to the Commander of the Wehrmacht, who was considered as responsible for this 'unheard of event,' show the varied reactions of the mass of the Dutch people. From the bitterest insults to apparently pious petitions and prayers not to resort to extremes, no nuance was lacking which did not in one way or another indicate, to say the least, complete disapproval and misunderstanding, first of the threat, and secondly of the actual execution of the hostages. Reproaches for this most severe infraction of law (which were based on serious argument and often gave rise to thought), and also cries of despair from idealists who, in spite of all that had occurred in the political sphere, had still believed in German-Dutch understanding but now saw all was at an end—all this was found in the correspondence. In addition, the objection was raised that such methods were only doing the work of the Communists, who as the real instigators of active sabotage must be very glad to couple with their achievements the pleasure of the elimination of 'such hostages.'

"In short, such disapproval even in the ranks of the very few really pro-German Dutch had never before been noticed, so much hatred at one time had never been felt."—signed—"Schneider, Captain."

Despite these warnings proffered by conscientious subordinates, neither the General Staff nor Keitel ever gave any order to the contrary. The order of 16 September 1941 always remained in force. When I have shown you examples of executions of hostages in France, you will see that a number of facts which I shall utilize are dated 1942, 1943 and even 1944.

THE PRESIDENT: Perhaps we had better adjourn now.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: If Your Honor please, the Defendants Kaltenbrunner and Streicher will continue to be absent during this afternoon's session.

THE PRESIDENT: Mr. Dubost, the Tribunal had some difficulty this morning in following the documents that you were citing; and also, the Tribunal understands the interpreters had some difficulty because the document books, except the one that is before me, have no indications of the "PS" or other numbers; and the documents themselves are not numbered in order. Therefore it is extremely difficult for members of the Tribunal to find documents, and it is also extremely difficult for the interpreters to find any document which may be before them.

So, this afternoon, it will be appreciated if you will be so kind as to indicate what the document is, and then give both the interpreters and the Tribunal enough time in which they may find the document, and then indicate exactly which part of the document you are going to read, that is to say, whether it is the beginning of the document, or the first paragraph, or the second, and so on. But you must bear with us if we find some difficulty in following you in the documents.

M. DUBOST: Very well, Your Honor.

I had finished this morning presenting the general rules which prevailed during the five years of occupation in the matter of the execution of numerous hostages in the occupied countries of the West. I brought you the evidence, by reading a series of official German documents, that the highest authorities of the Army, of the Party, and of the Nazi Government had deliberately chosen to practice a terroristic policy through the seizure of hostages.

Before passing to the examination of a few particular cases, it seems to me to be necessary to say exactly wherein this policy consisted, in the light of the texts which I have quoted.

According to the circumstances, people belonging by choice or ethnically to the vanquished nations were apprehended and held as a guarantee for the maintenance of order in a given sector; or after a given incident of which the enemy army had been the victim. They were apprehended and held with a view to obtaining the execution by the vanquished population of acts determined by the occupying authority, such as denunciation, payment of collective fines, the handing over of perpetrators of assaults committed against the German Army, and the handing over of political adversaries; and these persons thus arrested were often massacred subsequently by way of reprisal.

An idea emerges from methods of this kind, namely, that the hostage, who is a human being, becomes a special security subjected to seizure as determined by the enemy. How contrary this is to the rule of individual liberty and human dignity. All the members of the German Government are jointly responsible for this iniquitous concept and for its application in our vanquished countries. No member of the German Government can throw this responsibility on to subordinates by claiming that they merely executed clearly stated orders with an excess of zeal.

I have shown you that upon many occasions, on the contrary, the persons who carried out the orders reported to the chiefs the moral consequences resulting from the application of the terroristic policy of hostages. And we know that in no case were contrary orders given. We know that the original orders were always maintained.

I shall not endeavor to enumerate in their totality all the cases of executions of hostages. For our country, France, alone, there were 29,660 executed. This is proved in Document Number F-420, dated Paris, 21 December 1945, the original of which will be submitted under Exhibit Number RF-266 to your Tribunal. It is at the beginning of the document book, the second document. There in detail, region by region, the number is given of the hostages who were executed.

"Region of: Lille, 1,143; Laon, 222; Rouen, 658; Angers, 863; Orléans, 501; Reims, 353; Dijon, 1,691; Poitiers, 82; Strasbourg, 211; Rennes, 974; Limoges, 2,863; Clermont-Ferrand, 441; Lyons, 3,674; Marseilles, 1,513; Montpellier, 785; Toulouse, 765; Bordeaux, 806; Nancy, 571; Metz, 220; Paris, 11,000; Nice, 324; total, 29,660."

I shall limit my presentation to a few typical cases of executions which unveil the political plan of the General Staff which prescribed these executions—plans of terror, plans that were intended to create and accentuate the division between Frenchmen, or, more generally, between citizens of the occupied countries. You will find in your document book a file quoted as F-133, which I submit as Exhibit Number RF-288. This is called "Posters Concerning Paris." At the head of the page you will read, *Pariser Zeitung* supplement. This document reproduces a few of the very numerous posters and bills, some of the numerous notices inserted in the press from 1940 to 1945 announcing the arrest of hostages in Paris, in the Paris district, and in France. I shall read only one of these documents, which you will find on the second page, entitled Number 6, 19 September 1941. You will see in it an appeal to informers, an appeal to traitors; you will see in it a means of corruption, which systematically applied

to all the countries of the West for years; all tended to demoralize them to an equal extent:

"Appeal to the population of occupied territories.

"On 21 August a German soldier was fired on and killed by cowardly murderers. In consequence I ordered on 23 August that hostages be taken, and threatened to have a certain number of them shot in case such an assault should be repeated.

"New crimes have obliged me to put this threat into execution. In spite of this, new assaults have taken place.

"I recognize that the great majority of the population is conscious of its duty, which is to help the authorities in their unremitting effort to maintain calm and order in the country in the interest of this population."

And here is the appeal to informers:

"But among you there are agents paid by powers hostile to Germany, Communist criminal elements who have only one aim, which is to sow discord between the occupying power and the French population. These elements are completely indifferent to the consequences, affecting the entire population, which result from their activity.

"I will no longer allow the lives of German soldiers to be threatened by these murderers. I shall stop at no measure, however rigorous, in order to fulfill my duty.

"But it is likewise my duty to make the whole population responsible for the fact that, up to the present, it has not yet been possible to lay hands on the cowardly murderers and to impose upon them the penalty which they deserve.

"That is why I have found it necessary, first of all for Paris, to take measures which, unfortunately, will hinder the everyday life of the entire population. Frenchmen, it depends on you whether I am obliged to render these measures more severe or whether they can be suspended again.

"I appeal to you all, to your administration and to your police, to co-operate by your extreme vigilance and your active personal intervention in the arrest of the guilty. It is necessary, by anticipating and denouncing these criminal activities, to avoid the creation of a critical situation which would plunge the country into misfortune.

"He who fires in ambush on German soldiers, who are doing only their duty here and who are safeguarding the maintenance of a normal life, is not a patriot but a cowardly assassin and the enemy of all decent people.

"Frenchmen! I count on you to understand these measures which I am taking in your own interests also."—Signed—"Von Stülpnagel."

Numerous notices follow which all have to do with executions.

Under Number 8 on the following page you will find a list of twelve names among which are three of the best known lawyers of the Paris Bar, who are characterized as militant Communists, Messrs. Pitard, Hajje and Rolnikas.

In file 21 submitted by my colleague, M. Gerthoffer, in the course of his economic presentation, you will find a few notices which are similar, published in the German official journal VOBIF.

You will observe, in connection with this notice of 16 September announcing the execution or rather, the murder, of M. Pitard and his companions, that the murderers had neither the courage nor the honesty to say that they were all Parisian lawyers. Was it by mistake? I think that it was a calculated lie, for at this time it was necessary to handle the elite gently. The occupying power still hoped to separate them from the people of France.

I shall describe to you in detail two cases which spread grief in the hearts of the French in the course of the month of October 1941 and which have remained present in the memory of all my compatriots. They are known as the "executions of Châteaubriant and of Bordeaux." They are related in Document Number F-415 in your document book, which I submit to the Tribunal as Exhibit Number RF-285.

After the attack on two German officers at Nantes on 20 October 1941 and in Bordeaux a few days later, the German Army decided to make an example. You will find, on Page 22 of Document Number F-415, a copy of the notice in the newspaper *Le Phare* of 21 October 1941.

"Notice. Cowardly criminals in the pay of England and of Moscow killed, with shots in the back, the Feldkommandant of Nantes on the morning of 20 October 1941. Up to now the assassins have not been arrested.

"As expiation for this crime I have ordered that 50 hostages be shot to begin with. Because of the gravity of the crime, 50 more hostages will be shot in case the guilty should not be arrested between now and 23 October 1941 by midnight."

The conditions under which these reprisals were exercised are worth describing in detail. Stülpnagel, who was commanding the German troops in France, ordered the Minister of the Interior to designate prisoners. These prisoners were to be selected among the Communists who were considered the most dangerous (these are the terms of Stülpnagel's order). A list of 60 Frenchmen was

furnished by the Minister of the Interior. This was Pucheu. He has since been tried by my compatriots, sentenced to death, and executed.

The Subprefect of Châteaubriant sent a letter to the Kommandantur of Châteaubriant, in reply to the order which he received from the Minister of the Interior:

"Following our conversation of today, I have the honor of confirming to you that the Minister of the Interior has communicated today with General Von Stülpnagel in order to designate to him the most dangerous Communist prisoners among those who are now held at Châteaubriant. You will find enclosed herewith the list of 60 individuals who have been handed over this day."

On the following page is the German order:

"Because of the assassination of the Feldkommandant of Nantes, Lieutenant Colonel Hotz, on 20 October 1941, the following Frenchmen, who were already imprisoned as hostages in accordance with my publication of 22 August 1941 and of my ordinance to the Plenipotentiary General of the French Government of 19 September 1941, are to be shot."

In the following pages you will find a list, of all the men who were shot on that day. I leave out the reading of the list in order not to lengthen the proceedings unduly.

On Page 16 you will find a list of 48 names. On Page 13 you will find the list of those who were shot in Nantes. On Page 12 you will find the list of those who were shot in Châteaubriant. Their bodies were distributed for burial to all the surrounding communes.

I shall read to you the testimony of eyewitnesses as to how they were buried after having been shot. On Page 3 of this document you will find the note of M. Dumenil concerning the executions of 21 October 1941, which was written the day after these executions. The second paragraph reads:

"The priest was called at 11:30 to the prison of La Fayette. An officer, probably of the GFP, told him that he was to announce to certain prisoners that they were going to be shot. The priest was then locked up in a room with the 13 hostages who were at the prison. The other three, who were at les Rochettes, were ministered to by Abbé Théon, professor at the College Stanislas.

"The Abbé Fontaine said to the condemned, 'Gentlemen, you must understand, alas, what my presence means.' He then spoke with the prisoners collectively and individually for the two hours which the officers had said would be granted to

arrange the personal affairs of the condemned and to write their last messages to their families.

"The execution had been fixed for 2 o'clock in the afternoon, half an hour having been allowed for the journey. But the two hours went by, another hour passed, and still another hour before the condemned were sent for. Certain of them, optimists by nature, like M. Fourny, already hoped that a countermanding order would be given, in which the priest himself did not at all believe.

"The condemned were all very brave. It was two of the youngest, Gloux and Grolleau, who were students, who constantly encouraged the others, saying that it was better to die in this way than to perish uselessly in an accident.

"At the moment of leaving, the priest, for reasons which were not explained to him, was not authorized to accompany the hostages to the place of execution. He went down the stairs of the prison with them as far as the car. They were chained together in twos. The thirteenth had on handcuffs. Once they were in the truck, Gloux and Grolleau made another gesture of farewell to him, smiling and waving their hands that were chained together.

"Signed: Dumenil, Counsellor attached to the Cabinet."

Sixteen were shot in Nantes. Twenty-seven were shot in Châteaubriant. Five were shot outside the department. For those who were shot in Châteaubriant, we know what their last moments were like. The Abbé Moyon, who was present, wrote on 22 October 1941 the account of this execution. This is the third paragraph, Page 17 of your document:

"It was on a beautiful autumn day. The temperature was particularly mild. There had been lovely sunshine since morning. Everyone in town was going about his usual business. There was great animation in the town for it was Wednesday, which was market day. The population knew from the newspapers and from the information it had received from Nantes that a superior officer had been killed in a street in Nantes but refused to believe that such savage and extensive reprisals would be applied. At Choisel Camp the German authorities had, for some days, put into special quarters a certain number of men who were to serve as hostages in case of special difficulties. It was from among these men that those who were to be shot on this evening of 22 October 1941 were chosen.

"The Curé of Béré was finishing his lunch when M. Moreau Chief of Choisel Camp presented himself. In a few words

the latter explained to him the object of his visit. Having been delegated by M. Lecornu, the subprefect of Châteaubriant, he had come to inform him that 27 men selected among the political prisoners of Choisel were going to be executed that afternoon; and he asked Monsieur Le Curé to go immediately to attend them. The priest said he was ready to accomplish this mission, and he went to the prisoners without delay.

"When the priest appeared to carry out his mission, the subprefect was already among the condemned. He came to announce the horrible fate which was awaiting them, asking them to write letters of farewell to their families without delay. It was under these circumstances that the priest presented himself at the entrance to the quarters."

You will find on Page 19 the "departure for the execution," Paragraph 4:

"Suddenly there was the sound of automobile engines. The door, which I had shut at the beginning so that we might be more private, was abruptly opened and French constables carrying handcuffs appeared. A German officer arrived. He was actually a chaplain. He said to me, 'Monsieur le Curé, your mission has been accomplished and you must withdraw immediately.' "

At the bottom of the page, the last paragraph:

"Access to the quarry where the execution took place was absolutely forbidden to all Frenchmen. I only know that the condemned were executed in three groups of nine men, that all the men who were shot refused to have their eyes bound, that young Mocquet fainted and fell, and that the last cry which sprang from the lips of these heroes was an ardent 'Vive la France.' "

On Page 21 of the same document you will find the declaration of Police Officer Roussel. It is also worth reading:

"The 22 October 1941 at about 3:30 in the afternoon, I happened to be in the Rue du 11 Novembre at Châteaubriant, and I saw coming from Choisel Camp four or five German trucks, I cannot say exactly how many, preceded by an automobile in which was a German officer. Several civilians with handcuffs were in the trucks and were singing patriotic songs, the 'Marseillaise,' the 'Chant du Depart,' and so forth. One of the trucks was filled with armed German soldiers.

"I learned subsequently that these were hostages who had just been fetched from Choisel Camp to be taken to the quarry of

Sablière on the Soudan Road to be shot in reprisal for the murder at Nantes of the German Colonel Hotz.

"About two hours later these same trucks came back from the quarry and drove into the court of the Châteaubriant, where the bodies of the men who had been shot were deposited in a cellar until coffins could be made.

"Coming back from the quarry the trucks were covered and no noise was heard, but a trickle of blood escaped from them and left a trail on the road from the quarry to the castle.

"The following day, on the 23rd of October, the bodies of the men who had been shot were put into coffins without any French persons being present, the entrances to the château having been guarded by German sentinels. The dead were then taken to nine different cemeteries in the surrounding communes, that is, three coffins to each commune. The Germans were careful to choose communes where there was no regular transport service, presumably to avoid the population going *en masse* to the graves of these martyrs.

"I was not present at the departure of the hostages from the camp nor at the shooting in the quarry of Sablière, as the approaches to it were guarded by German soldiers armed with machine guns."

Almost at the same time, in addition to these 48 hostages who were shot, there were others—those of Bordeaux. You will find in your document book, under Document Number F-400, documents which have been sent to us by the Prefecture of the Gironde, which we submit to the Tribunal as Exhibit Number RF-286.

One of them comes from the Bordeaux Section of Political Affairs, and is dated 22 October 1941, Document F-400(b).

"In the course of the conference, which took place last night at the Feldkommandantur of Bordeaux, the German authorities asked me to proceed immediately to arrest 100 individuals known for their sympathy with the Communist Party or the Gaullist movement, who will be considered as hostages, and to make a great number of house searches.

"These operations have been in process since this morning. So far no interesting result has been called to my attention. In addition, this morning at 11 o'clock the German authorities informed me of the reprisal measures which they had decided to take against the population."

These reprisal measures you will find set forth on Page "A" of the same document in a letter addressed by General Von Faber Du Faur, Chief of the Regional Administration of Bordeaux, to the Prefect of the Gironde. I quote:

"Bordeaux, 23 October 1941.

"To the Prefect of the Gironde, Bordeaux.

"As expiation for the cowardly murder of the Councillor of War, Reimers, the Military Commander in France has ordered 50 hostages to be executed. The execution will take place tomorrow.

"In case the murderers should not be arrested in the very near future, additional measures will be taken, as in the case of Nantes.

"I have the honor of making this decision known to you.

"Chief of the Military Regional Administration,"—signed—"Von Faber Du Faur."

And in execution of this order, 50 men were shot. There is a famous place in the surburbs of Paris which has become a place of pilgrimage for the French since our liberation. It is the Fort of Romainville. During the occupation the Germans converted this fort into a hostage depot from which they selected victims when they wanted to take revenge after some patriotic demonstration. It is from Romainville that Professors Jacques Solomon, Decourtemanche, Georges Politzer, Dr. Boer and six other Frenchmen departed. They had been arrested in March 1942, tortured by the Gestapo, then executed without trial in the month of May 1942, because they refused to renounce their faith.

On 19 August 1942, 96 hostages left this fort, among them M. Le Gall, a municipal councillor of Paris. They left the fort of Romainville, were transferred to Mont-Valérien and executed.

In September 1942 an assault had been made against some German soldiers at the Rex cinema in Paris. General Von Stülpnagel issued a proclamation announcing that, because of this assault, he had caused 116 hostages to be shot and that extensive measures of deportation were to be taken. You will find an extract from this newspaper in Document Number F-402(b) (Exhibit Number RF-287).

The notice was worded as follows:

"As a result of assaults committed by Communist agents and terrorists in the pay of England, German soldiers and French civilians have been killed or wounded.

"As reprisal for these assaults I have had 116 Communist terrorists shot, whose participation or implication in terroristic acts has been proved by confessions.

"In addition, severe measures of repression have been taken. In order to prevent incidents on the occasion of demonstrations planned by the Communists for 20 September 1942, I ordered the following:

"1) From Saturday, 19 September 1942, from 3 o'clock in the afternoon, until Sunday, 20 September 1942, at midnight, all theaters, cinemas, cabarets, and other places of amusement reserved for the French population shall be closed in the Departments of the Seine, Seine-et-Oise, and Seine-et-Marne. All public demonstrations, including sports, are forbidden.

"2) On Sunday, 20 September 1942, from 3 o'clock in the afternoon until midnight, non-German civilians are forbidden to walk about in the streets and public places in the Departments of the Seine, Seine-et-Oise, and Seine-et-Marne. The only exceptions are persons representing official services . . . ."

In actual fact, it was only on the day of 20 September that 46 of these hostages were chosen from the list of 116. The Germans handed newspapers of 20 September to the prisoners of Romainville, announcing the decision of the Military High Command. It was, therefore, through the newspapers that the prisoners of Romainville learned that a certain number of them would be chosen at the end of the afternoon to be led before the firing squad.

All lived through that day awaiting the call that would be made that evening. Those who were called knew their fate beforehand. All died innocent of the crimes for which they were being executed, for those who were responsible for the assault in the Rex cinema were arrested a few days later.

It was in Bordeaux that the 70 other hostages of the total of 116 announced by General Von Stülpnagel were executed. In reprisal for the murder of Ritter, the German official of the Labor Front, 50 other hostages were shot at the end of September 1943 in Paris. Here is a reprint of the newspaper article which announced these executions to the French people—Document Number F-402(c).

"Reprisals against terroristic acts. Assaults and acts of sabotage have increased in France recently. For this reason 50 terrorists, convicted of having participated in acts of sabotage and of terrorism, were shot on 2 October 1943 by order of the German authorities."

All these facts concerning the hostages of Romainville have been related to us by one of the rare survivors, M. Rabaté, a mechanic living at 69 Rue de la Tombe-Issiore, Paris, whose testimony was taken by one of our collaborators.

In this testimony—Document Number F-402(a), which has already been submitted as Exhibit Number RF-287—we read the following:

"There were 70 of us, including Professor Jacques Solomon, Decourtemanche and Georges Politzer, Dr. Boer, and Messrs. Engros, Dudach, Cadras, Dalidet, Golue, Pican who were shot

in the month of May 1942, and an approximately equal number of women.

"Some of us were transferred to the German quarter of the Santé (a prison in Paris), but the majority of us were taken to the military prison of Cherche-Midi (in Paris). We were questioned in turn by a Gestapo officer in the offices of the Rue des Saussaies. Some of us, especially Politzer and Solomon, were tortured to such an extent that their limbs were broken, according to the testimony of their wives.

"Moreover, while questioning me, the Gestapo officer confirmed this to me: I repeat his words:

" 'Rabaté, here you will have to speak. Professor Langevin's son-in-law, Jacques Solomon, came in here arrogant. He went out crawling.'

"After a short stay of 5 months in the prison of Cherche-Midi, in the course of which we learned of the execution as hostages of the 10 prisoners already mentioned, we were transferred on 24 August 1942 to the Fort of Romainville.

"It is to be noted that from the day of our arrest we were forbidden to write, or to receive mail, or inform our families where we were. On the doors of our cells was written, 'Alles verboten' ('Everything is forbidden'). We received only the strict food ration of the prison, namely, three-fourths of a liter of vegetable soup and 200 grams of black bread per day. The biscuits sent to the prison for political prisoners by the Red Cross or by the Quakers' Association were not given to us because of this prohibition.

"In the Fort of Romainville we were interned as 'isolated prisoners,' an expression corresponding to the 'NN' (Nacht und Nebel), which we knew about in Germany."

THE PRESIDENT: M. Dubost, the Tribunal thinks that, unless there is anything very special that you wish to read in any of these documents, they have already heard the number of the hostages who were put to death and they think that it really does not add to it—the actual details of these documents.

M. DUBOST: I thought, Mr. President, that I had not spoken to you of the regime to which men were subjected when they were prisoners of the German Army. I thought that it was my duty to enlighten the Tribunal on the condition of these men in the German prisons.

I thought that it was also my duty to enlighten the Tribunal on the ill-treatment inflicted by the Gestapo, who left the son-in-law of Professor Langevin with his limbs broken. Moreover that is found in a testimony.

THE PRESIDENT: Certainly, if there are matters of that sort which you think it right to go into, you must do so; but the actual details of individual shooting of hostages we think you might, at any rate, summarize. But if there are particular atrocities which you wish to draw our attention to, by all means do so.

M. DUBOST: Mr. President, I have only given two examples of executions out of the multiple executions which caused 29,660 deaths in my country.

THE PRESIDENT: Go on, M. Dubost.

M. DUBOST: In the region of the North of France, which was administratively attached to Belgium and subjected to the authority of General Von Falkenhausen, the same policy of execution was practiced. You will find in Document Number F-133, submitted as Exhibit Number RF-289, copies of a great number of posters announcing either arrests, executions, or deportations. Certain of these posters include, moreover, an appeal to informers, and they are analogous to those which I read to you in connection with France. Perhaps it would be well, nevertheless, to point out the one that you will find on Page 3, which concerns the execution of 20 Frenchmen, ordered as the result of a theft; that on Page 4, which concerns the execution of 15 Frenchmen, ordered as a result of an attack against a railroad installation; and finally, especially the last, the one that you will find on Pages 8 and 9, which announces that executions will be carried out, and invites the civilian population to hand over the guilty ones, if they know them, to the German Army.

As concerns especially the countries of the West other than France, we have a very great number of identical cases. You will find in your document book, under Document Number F-680, Exhibit Number RF-290, a copy of a poster by the Military Commander-in-Chief for Belgium and the North of France, which announces the arrest in Tournai, on 18 September 1941, of 25 inhabitants as hostages, and specifies the condition under which certain of them will be shot if the guilty are not discovered. But you will find especially, under the Number F-680(a) a remarkable document; it comes from the German authorities themselves. It is the secret report of the German Chief of Police in Belgium dated 13 December 1944, that is to say, when Belgium was totally liberated and this German official wished to give an account to his chiefs of his services during the occupation of Belgium.

From the first page of this document we take the following passage:

"The increasing incitement of the population, by enemy radio and enemy press, to acts of terrorism and sabotage"—this is

applied to Belgium—"the passive attitude of the population, particularly that of the Belgian administration, the complete failure of the public prosecutors, the examining judges, and of the police to disclose and prevent terrorist acts, have finally led to preventive and repressive measures of the most rigorous kind, that is to say, to the execution of persons closely related to the culprits.

"Already on 19 October 1941, on the occasion of the murder of two police officials in Tournai, the Military Commander-in-Chief declared through an announcement appearing in the press that all the political prisoners in Belgium would be considered as hostages with immediate effect. In the provinces of the north of France, subject to the jurisdiction of the same Military Commander-in-Chief, this ordinance was already in force as from 26 August 1941. Through repeated notices appearing in the press the civilian population has been informed that political prisoners taken as hostages will be executed if the murders continue to be committed.

"As a result of the assassination of Teughels, Rexist major of Charleroi, and other attempts at assassination of public officials, the Military Commander-in-Chief has been obliged to order, for the first time in Belgium, the execution of eight terrorists. The date of the execution is 27 November 1942."

On the following page of this same document—Number F-680(b)—you will find another order dated 22 April 1944, secret, and issued by the Military Commander in Belgium and the North of France, concerning measures of reprisal for the murder of two Walloon SS, who had fought at Tcherkassy; five hostages were shot on that day.

On the following page nine hostages are added to these five, and still a tenth on the next page. Then five others on the following page.

You will find, finally, on the next to the last page of the document, a proposed list of persons to be shot in reprisal for the murder of SS men. Compare the dates, and judge the ferocity with which the assassination of these two Walloon traitors, SS volunteers, was revenged.

Finally, you will see the names of the 20 Belgian patriots who were thus murdered.

"Nouveau Journal, 25 April 1944.

"Measures of reprisal for the murder of men who fought at Tcherkassy.

"Announcement by the German authorities:

"The perpetrators of the assassination on 6 April of the members of the SS Sturmbrigade Wallonie, Hubert Stassen and

François Musch, who fought at Tcherkassy, have so far not been apprehended. Therefore, in accordance with the communication dated 10 April 1944, the 20 terrorists whose names follow have been executed:

"Renatus Dierickx of Louvain; Francois Boets of Louvain; Antoine Smets of Louvain; Jacques Van Tilt of Holsbeeks; Emiliens Van Tilt of Holsbeek; Franciskus Aerts of Herent; Jan Van der Elst of Herent; Gustave Morren of Louvain; Eugene Hupin of Chapelle-lez-Herlaimont; Pierre Leroy of Boussois; Leon Hermann of Montigny-sur-Sambre; Felix Trousson of Chaudfontaine; Joseph Grab of Tirlemont; Octave Wintgens of Baelen-Hontem; Stanislaw Mrozowski of Grâce-Berleur; Marcel Boeur of Athus; Marcel Dehon of Ghlin; André Croquelois of Pont des Briques, near Boulogne; Gustave Hos of Mons; and the stateless Jew, Walter Kriss of Herent."

THE PRESIDENT: We will adjourn now for 10 minutes.

[A recess was taken.]

M. DUBOST: As far as the other western countries, Holland and Norway, are concerned, we have received documents which we submit as Document Number F-224(b), Exhibits RF-291, 292, and 293.

In the French text you will find a long list of civilians who were executed. Also you will find a report of the Chief of the Criminal Police, Munt, in connection with these executions, and you will observe that Munt tries to prove his own innocence, in my opinion without success. This is in Document Number RF-277, already submitted.

On Page 6 you will find the report of an investigation concerning mass executions carried out by the Germans in Holland. I do not think it is necessary to read this report. It brings no new factual element and simply illustrates the thesis that I have been presenting since this morning: That in all the western countries the German military authorities systematically carried out executions of hostages as reprisals for acts of resistance. You will see that on 7 March 1945 an order was given to shoot 80 prisoners, and the authority who gave this order said, "I don't care where you get your prisoners"—execution without any designation of age or profession or origin.

The Tribunal will see that a total of 2,080 executions was reached. It will be noted that as a reprisal for the murder of an SS soldier, a house was destroyed and 10 Dutchmen were executed; and in addition, two other houses were destroyed. In another case 10 Dutchmen were executed. Altogether, 3,000 Dutchmen were executed under these conditions, according to the testimony of this

document, which was drawn up by the War Crimes Commission, signed by the Chief of the Dutch Delegation to the International Military Tribunal at Nuremberg, Colonel Baron Van Tuyll van Serooskerken.

This document gives to the Tribunal the approximate number of victims, region by region.

I do not wish to conclude the statement as to hostages concerning Holland without drawing the attention of the Tribunal to Section (b) of Document Number F-224, which gives a long list of hostages, prisoners or dead, arrested by the Germans in Holland; for the Tribunal will observe that most of the hostages were intellectuals or very highly placed personages in Holland. We note, therein, the names of members of parliament, lawyers, senators, Protestant clergymen, judges, and amongst them we find a former Minister of Justice. The arrests were made systematically among the intellectual elite of the country.

As far as Norway is concerned, the Tribunal will find in Document Number F-240, submitted as Exhibit Number RF-292, a short report of the executions which the Germans carried out in that country:

> "On 26 April 1942 two German policemen who tried to arrest two Norwegian patriots were killed on an island on the west coast of Norway. In order to avenge them, 4 days later 18 young men were shot without trial. All these 18 Norwegians had been in prison since the 22 February of the same year and therefore had nothing to do with this affair."

In the first paragraph of the French translation in the French document book, which is Page 22 of the Norwegian original, it states that:

> "On 6 October 1942, 10 Norwegian citizens were executed in reprisal for attempts at sabotage.
>
> "On 20 July 1944 an indeterminate number of Norwegians were shot without trial. They had all been taken from a concentration camp. The reason for this arrest and execution is unknown.
>
> "Finally, after the German capitulation, the bodies of 44 Norwegian citizens were found in graves. All had been shot and we do not know the reason for their execution. It has never been published, and we do not believe they were tried. The executions were effected by a shot through the back of the neck or a revolver bullet through the ear, the hands of the victims being tied behind their backs."

This information is given by the Norwegian Government for this Tribunal.

I draw the attention of the Tribunal to a final document, Number R-134 (Exhibit Number RF-293), signed by Terboven, which concerns the execution of 18 Norwegians who were taken prisoners for having made an illegal attempt to reach England.

It is by thousands and tens of thousands that in all the western countries citizens were executed without trial in reprisal for acts in which they never participated. It does not seem necessary to me to multiply these examples. Each of these examples involves individual responsibility which is not within the competency of this Tribunal. The examples are only of interest in so far as they show that the orders of the defendants were carried out and notably the orders of Keitel.

I believe that I have amply proved this. It is incontestable that in every case the German Army was concerned with these executions, which were not solely carried out by the police or the SS.

Moreover, they did not achieve the results expected. Far from reducing the number of attacks, it increased them. Each attempt was followed by an execution of hostages, and every shooting of hostages occasioned more attacks in revenge. Generally the announcement of new executions of hostages plunged the countries into a stupor and forced every citizen to become conscious of the fate of his land, despite the efforts of German propaganda. Faced with the failure of this terroristic policy, one might have thought that the defendants would modify their methods. Far from modifying them, they intensified them. I shall endeavor to show the activity of the police and the law from the time when, the policy of hostages having failed, it was necessary to appeal to the German police in order to keep the occupied countries in a state of servitude. The German authorities made arbitrary arrests at all times and from the very beginning of the occupation; but with the failure of the policy of executing hostages, which was—as you remember—commented upon by General Von Falkenhausen in the case of Belgium, arbitrary arrests increased to the point of becoming a constant practice substituted for that of killing hostages.

We submit to the Tribunal Document Number 715-PS, Exhibit Number RF-294. This document concerns the arrest of high-ranking officers who were to be transferred to Germany in honorable custody:

"Subject: Measures to be taken against French Officers.

"In agreement with the German Embassy in Paris and with the Chief of the Security Police and the SD, the Supreme Commander in the West has made the following proposals:

"1. The senior officers enumerated below will be arrested and transferred to Germany in honorable custody:

"Generals of the Army: Frere"—who died subsequently in Germany after his deportation—"Gérodias, Cartier, Revers, De Lattre de Tassigny, Fornel de la Laurencie, Robert de Saint-Vincent, Laure, Doyen, Pisquendar, Mittelhauser, Paquin;

"Generals of the Air Force: Bouscat, Carayon, De Geffrier D'Harcourt, Mouchard, Mendigal, Rozoy;

"Colonels: Loriot and Fonck.

"It is a question of generals whose names have a propaganda value in France and abroad or whose attitude and abilities represent a danger.

"2. Moreover, we have chosen from the index of officers kept by the 'Arbeitsstab' in France about 120 officers who have distinguished themselves by their anti-German attitude during the last two years. The SD has also given a list of about 130 officers previously accused. After the compilation of these two lists, the arrest of these officers is to be arranged at a later date, depending on the situation....

"6. In the case of all officers of the French Army of the Armistice, the Chief of the Security Police, in collaboration with the Supreme Command West, will appoint a special day for the whole territory for a check to be made by the police of domiciles and occupations."

And here are the most important passages:

"As a measure of reprisal, families of suspected persons who have already shown themselves to be resistants or who might become so in the future, will be transferred as internees to Germany or to the territory of eastern France. For these the question of billeting and surveillance must first of all be solved. Afterwards we contemplate as a later measure the deprivation of their French nationality and the confiscation of property, already carried out in other cases by Laval."

The police and the army were involved in all of these arrests. A telegram in cipher shows that the Minister of Foreign Affairs himself was concerned in the matter. Document Number 723-PS, which becomes Exhibit Number RF-295, will be read in this connection. It is the third document of the document book. It is addressed to the Minister of Foreign Affairs and is dated Paris, 5 June 1943:

"In the course of the conference which took place yesterday with the representatives of the High Command West and the SD, the following was agreed on concerning measures to be taken:

"The aim of these measures must be to prevent, by precautionary measures, the escape from France of any more well-known soldiers and at the same time to prevent these personages from organizing a resistance movement in the event of an attempted landing in France by the Anglo-Saxon powers.

"The circle of officers here concerned comprises all who, by their rank and experience or by their name, would considerably strengthen the military command or the political credit of the resistants, if they should decide to join them. In the event of military operations in France we must consider them as being of the same importance.

"The list has been drawn up in agreement with the High Command West, the Chief of the Security Police, and the General of the Air Force in Paris."

I shall not read these new names of high-ranking French officers who were to be arrested but will go on further where the Tribunal will see that the German authorities contemplated causing officers already arrested by the French Government and under the surveillance of the French authorities to undergo the same fate as General De Lattre de Tassigny, General Laure, and General Fornel de la Laurencie. These generals were to be literally torn away from the French authorities to be deported.

"In view of the present general situation and the contemplated security measures, all the authorities here consider it undesirable for these generals to remain in French custody, as the possibility must be considered that either through negligence or by intentional acts of the guard personnel, they might escape and regain their liberty."

Finally, Page 7, under Roman numeral IX, concerning reprisals against families:

"General Warlimont had asked the Commander-in-Chief of the Western Front to raise the question of reprisal measures against the relatives of persons who had joined the resistance and to submit any proposals.

"President Laval declared himself ready, not long ago, to take measures of this kind on behalf of the French Government; but to limit himself to the families of some particularly distinguished persons."

I refer to the paragraph before the last of the telegraphic report Number 3,486 of 29 May 1943:

"We must wait and see whether Laval is really willing to apply reprisal measures in a practical way.

"All those present at the meetings were in agreement that such measures should be taken in any event, as rapidly as possible, against families of well-known personages who had become resistants. (For example, members of the families of Generals Giraud, Juin, Georges, the former Minister of the Interior, Pucheu, the Inspector of Finance Couve De Murville, Leroy-Beaulieu, and others.)

"The measures may also be carried out by the German authorities, since the persons who have become resistants are to be considered as foreigners belonging to an enemy power and the members of their families are also to be considered as such.

"In the opinion of those present, the members of these families should be interned; the practical carrying-out of this measure and its technical possibilities must be carefully examined....

"We might also study the question of whether these families should be interned in regions particularly exposed to air attacks, for instance, in the vicinity of dams, or in industrial regions which are often bombed.

"A list of families who are considered liable for internment will be compiled in collaboration with the Embassy."

In this premeditation of criminal arrests we find the Defendant Ribbentrop, the Defendant Göring, and the Defendant Keitel involved; for it is their departments who made these proposals, and we know that these proposals were agreed to—Document Number 720-PS, submitted as Exhibit Number RF-296, the second in your document book.

It is a fact that these arrests were carried out. Members of the family of General Giraud were deported. General Frère was deported and died in a concentration camp. The orders were therefore carried out. They were approved before being carried out, and the approval inculpates the defendants whose names I have mentioned. The arrests did not only affect high-ranking officers but were much more extensive, and a great number of Frenchmen were arrested. We have no exact statistics.

THE PRESIDENT: M. Dubost, did you produce any evidence for your last statement?

M. DUBOST: I shall bring you the proof of the arrest of General Frère and his death in the concentration camp when I deal with the concentration camps. With regard to the arrest and death of several French generals in the concentration camps in Dachau, the Tribunal still remembers the testimony of Blaha. So far as the family of General Giraud is concerned, I shall endeavor

to bring proofs, but I did not believe it was necessary; it is a well-known fact that the daughter of General Giraud was deported.

THE PRESIDENT: I am not sure that we can take judicial notice of all facts which may be public knowledge in France.

M. DUBOST: I shall submit to the Tribunal the supplementary proof concerning the generals who died while deported when I deal with the question of the camps.

THE PRESIDENT: Very well.

M. DUBOST: General Frère died in Struthof Camp and we shall explain the circumstances under which he was assassinated. In addition, there exists in your document book a document numbered F-417, Exhibit Number RF-297, which was captured among the archives of the German Armistice Commission, which establishes that the German authorities refused to free French generals who were prisoners of war and whose state of health and advanced age made it imperative that they should be released. I quote:

> "As far as this question is concerned the Führer has always adopted an attitude of refusal, not only from the point of view of their release but also with regard to their hospitalization in neutral countries.
>
> "Release or hospitalization today is more out of question than ever, since the Führer has only recently ordered the transfer to Germany of all French generals living in France."

It is signed by Warlimont, and in handwriting it is noted: "No reply to be given to the French."

Please retain as evidence only this last sentence: "—since the Führer has only recently ordered the transfer to Germany of all French generals living in France." As I explained, however, these arrests infinitely exceeded the relatively limited number of generals or families of well-known persons envisaged by the document which I have just read to the Tribunal: "Very many Frenchmen will be arrested...." We have no statistics; but we have an idea of the number, which is considerable according to the figures given for Frenchmen who died in French prisons alone, prisons which had been placed under German command and were supervised by German personnel during the occupation.

We know that 40,000 Frenchmen died in the French prisons, alone, in France, according to the official figures given by the Ministry of Prisoners and Deportees. In the prison registry "Schutzhaft" (protective custody) is written. My American colleagues explained to the Tribunal what this protective custody meant when they read Document Number 1723-PS, submitted under Number USA-206. It is useless to return to this document. It is sufficient

to remind the Tribunal that imprisonment and protective custody were considered by the German authorities as the strongest measure of forceful education for any foreigners who would deliberately neglect their duty towards the German community or compromise the security of the German State; they had to act in accordance with the general interests and adapt themselves to the discipline of the State.

This protective custody was, as the Tribunal will remember, a purely arbitrary detention. Those who were interned in protective custody enjoyed no rights and could not vindicate themselves. There were no tribunals at their disposal before which they could plead their cause. We know now through official documents which were submitted to us, particularly by Luxembourg, that protective custody was carried out on a very large scale.

The Tribunal will read in Document Number F-229, already submitted as Exhibit Number USA-243, Document L-215, a list of 25 persons arrested and placed in different concentration camps under protective custody. The Tribunal wil recall that our colleagues drew its attention to the reason for the arrest of Ludwig, who was merely strongly suspected of having aided deserters.

Evidence of the application of protective custody in France is given in our Document Number F-278, submitted as Exhibit Number RF-300:

"Copy attached to VAAP-7236 (g)—Secret. Ministry for Foreign Affairs, Berlin, 18 September 1941.

"Subject: Report of August 30, of this year.

"The explanations of the Military Commander in France, of 1 August of this year, are considered in general to be satisfactory as a reply to the French note.

"Here, also, we consider there is every reason to avoid any further discussion with the French concerning preventive arrest, as this would only lead to fixing definite limits to the exercise of these powers by the occupying power, which would not be desirable in the interests of the liberty of action of the military authorities. By order, signed (illegible)."

"To the Representative of the Ministry for Foreign Affairs at the German Armistice Commission at Wiesbaden.

"The Representative of the Ministry for Foreign Affairs—VAAP 7236(g), Secret, dated Wiesbaden, 23 September 1941. Copy.

"... the Representative of the Ministry requests that he be informed at an opportune time of the reply made to the French note."

The Ministry for Foreign Affairs was still involved in this question of protective custody.

The grounds for this custody were, as the Ministry for Foreign Affairs admits and according to the testimony of this document, very weak; nevertheless, the Ministry for Foreign Affairs does not forbid it. The arrests were carried out under multiple pretexts, but all these pretexts may be summarized under two general ideas: Arrests were made either for motives of a political nature or for racial reasons. The arrests were individual or collective in both cases.

Pretexts of a political nature:

From 1941 the French observed that there was a synchronism between the evolution of political events and the rhythm of arrests. The French Document Number F-274(i) (Exhibit Number RF-301), which is at the end of your document book, will show this. A description is given by the Ministry of Prisoners and Deportees of the conditions under which these arrests took place, beginning in 1941—a critical period in the German history of the war, since it was from 1941 that Germany was at war with the Soviet Union:

> "The synchronism between the evolution of political events and the rhythm of arrests is evident. The suppression of the line of demarcation, the establishment of resistance groups, the formation of the Maquis resulting from forced labor, the landings in North Africa and in Normandy, all had immediate repercussions on the figures for arrests, of which the maximum curve is reached for the period of May to August 1944, especially in the southern zone and particularly in the region of Lyons.
>
> "We repeat that these arrests were carried out by the members of all categories of the German repressive system: the Gestapo in uniform or in plain clothes, the SD, the Gendarmerie, particularly at the demarcation line, the Wehrmacht and the SS....
>
> "The arrests took on the characteristics of collective operations. In Paris, as a result of an attempted assassination, the 18th Arrondissement was surrounded by the Feldgendarmerie. Its inhabitants, men, women, and children, could not return to their homes and spent the night where they could find shelter. A round-up was carried out in the arrondissement."

I do not think that it is necessary to read the following paragraph, which deals with the arrests at the University of Clermont-Ferrand, which the Tribunal will certainly remember, and also the arrests in Brittany in 1944, at the time of the landing.

The last paragraph, at the bottom of Page 11:

"... on the pretext of conspiracy or attempted assassinations, whole families were made to suffer. The Germans resorted to round-ups when compulsory labor no longer furnished them sufficient workers.

"Round-up in Grenoble, 24 December 1943, Christmas Eve.

"Round-up in Cluny, Saône-et-Loire, in March 1944.

"Round-up in Figeac in May 1944."

The last paragraph, at the bottom of Page 11:

"Most Frenchmen who were rounded up in this way were in reality not used for work in Germany but were deported, to be interned in concentration camps."

We might multiply the examples of these arbitrary arrests by delving into official documents which have been submitted by Luxembourg, Denmark, Norway, Holland, and Belgium. These round-ups were never legally justified, they were never even represented as an action taken in accordance with the pseudo-law of hostages to which we have already referred. They were always arbitrary and carried out without any apparent reason, or at any rate, without its being possible for any act of a Frenchman having motivated them even as a reprisal. Other collective arrests were made for racial reasons. They were of the same odious nature as the arrests made for political reasons.

On Page 5 of the official document of the Ministry of Prisoners and Deportees, the Tribunal may read a few odious details connected with these racial arrests.

"Certain German policemen were especially entrusted to pick out Jewish persons, according to their physiognomy. They called this group 'The Brigade of Physiognomists.' This verification sometimes took place in public as far as men were concerned. (At the railway station at Nice, some were unclothed at the point of a revolver.)

"The Parisians remember these round-ups, quarter by quarter. Large police buses transported old men, women, and children pell-mell and crowded them into the Velodrome d'Hiver under dreadful sanitary conditions before taking them to Drancy, where deportation awaited them. The round-up of the month of August 1941 has gained sad renown. All the exits of the subway of the 11th Arrondissement were closed and all the Jews in that district were arrested and imprisoned. The round-up of December 1941 was particularly aimed at intellectual circles. Then there were the round-ups of July 1942.

"All the cities in the southern zone, particularly Lyons, Grenoble, Cannes, and Nice, where many Jews had taken

refuge, experienced these round-ups after the total occupation of France.

"The Germans sought out all Jewish children who had found refuge with private citizens or with institutions. In May 1944 they proceeded to take into custody the children of the Colony of Eyzieux, and to arrest children who had sought refuge in the colonies of the U.G.I.F. in June and July 1944."

I do not believe that these children were enemies of the German people, nor that they represented a danger of any kind to the German Army in France.

THE PRESIDENT: Perhaps, M. Dubost, we had better break off now.

[The Tribunal adjourned until 25 January 1946 at 1000 hours.]

FORTY-THIRD DAY

Friday, 25 January 1946

Morning Session

MARSHAL: Your Honors, Defendants Kaltenbrunner and Streicher will be absent from this morning's session.

M. DUBOST: Your Honors, yesterday I was reading from an official French document, which appears in your document book under the title "Report of the Ministry for Prisoners of War and Deportees." It concerned the seizure by the Germans of Jewish children in France, who were taken from private houses or public institutions where they had been placed.

With your permission I will come back to a statement which I had previously made concerning the execution of orders, given by the German General Staff with the approval of the German Minister for Foreign Affairs, to arrest all French generals and, in reprisal, to arrest, as well, all the families of these generals who might be resistants, in other words, who were on the side of our Allies.

In accordance with Article 21 of the Charter the Tribunal will not require facts of public knowledge to be proved. In the enormous amount of facts which we submit to you there are many which are known but are not of public knowledge. There are a few, but nevertheless certain, facts which are both known and are also of public knowledge in all countries. There is the famous case of the deportation of the family of General Giraud, and I shall allow myself to recall to the Tribunal the six principal points concerning this affair. First: We all remember having learned through the Allied radio that Madame Giraud, wife of General Giraud . . .

THE PRESIDENT: What is it that you are going to ask us to take judicial knowledge of with reference to the deportation of General Giraud's family?

M. DUBOST: I have to ask the Tribunal, Mr. President, to apply, as far as these facts are concerned, Article 21 of the Charter, namely, the provision specifying that the Tribunal will not require facts to be proved which are of public knowledge.

Secondly, I request the Tribunal to hear my statement of these facts which we consider to be of public knowledge for they are

known not only in France but in America, since the American Army participated in these events.

THE PRESIDENT: The words of Article 21 are not "of public knowledge" but "of common knowledge." It is not quite the same thing.

M. DUBOST: Before me now I have the French translation of the Charter. I am interpreting according to the French translation: "The Tribunal will not require that facts of public knowledge ("notoriété publique") be proved." We interpret these words thus: it is not necessary to bring documentary or testifying proof of facts universally known.

THE PRESIDENT: You say "facts universally known"; but supposing, for instance, the members of the Tribunal did not know the facts? How could it then be taken that they were of common knowledge? The members of the Tribunal may be ignorant of the facts. At the same time it is difficult for them to take cognizance of the facts if they do not know them.

M. DUBOST: It is a question of fact which will be decided by the Tribunal. The Tribunal will say whether it does or does not know that these six points which I shall recall to it are correct.

THE PRESIDENT: The Tribunal will retire.

[A recess was taken.]

THE PRESIDENT: The Tribunal is of opinion that the facts with reference to General Giraud's deportation and the deportation of his family, although they are matters of common knowledge or of public knowledge within France, cannot be said to be of common knowledge or of public knowledge within the meaning of Article 21, which applies generally to the world.

Of course, if the French Prosecutors have governmental documents or reports from France which state the facts with reference to the deportation of General Giraud, the question assumes a different aspect and if there are such documents the Tribunal will, of course, consider them.

M. DUBOST: I must bring proof that the crimes committed individually by the leaders of the German police in each city and in each region of the occupied countries of the West, were committed in execution of the will of a central authority, the will of the German Government, which permits us to charge all the defendants one by one. I shall not be able to prove this by submitting German documents. That you may consider it a fact, it is necessary that you accept as valid the evidence which I am about to read. This

evidence was collected by the American and French armies and the French Office for Inquiry into War Crimes. The Tribunal will excuse me if I am obliged to read numerous documents.

This systematic will can only be proved by showing that everywhere and in every case the German policy used the same methods concerning patriots whom they interned or detained. Internment or imprisonment in France was in civilian prisons which the Germans had seized, or in certain sections of French prisons which the Germans had requisitioned, which they occupied, and which all French officials were forbidden to enter. The prisoners in all these prisons were subject to the same regime. We shall prove this by reading to you depositions of prisoners from each of these German penal institutions in France or the western occupied countries. This regime was absolutely inhuman. It just allowed the prisoners to survive under the most precarious conditions.

In Lyons, at Fort Montluc, the women received as their only food a cup of herb tea at 7 o'clock in the morning and a ladle of soup with a small piece of bread at 5 o'clock in the evening. This is confirmed by Document Number F-555, which you will find the eleventh in your document book, which we submit as Exhibit Number RF-302. The first page of this document, second paragraph, is an analysis of the depositions which were received. It is sufficient to refer to this analysis. I shall take a few lines from the following deposition. The witness declares:

> "... on their arrival at Fort Montluc, the prisoners who were taken in the round-up by the Gestapo on 20 September 1943 were stripped of all their belongings. The prisoners were treated in a brutal fashion. The food rations were quite inadequate. The women's sense of decency was not respected."

This testimony was received at Saint Gingolph, 9 October 1944. It refers to the arrests made at Saint Gingolph, which were carried out in the month of September 1943. The witness relates:

> "The young men returned from the interrogation with their toes burned by means of cotton-wool pads which had been dipped in gasoline; others had had their calves burned by the flames of a blow torch; others were bitten by police dogs...."

DR. RUDOLF MERKEL (Counsel for the Gestapo): The French Prosecution submits here documents which do not represent sworn affidavits. They are statements which do not show who took them. As a matter of principle I formally protest against these mere testimonies of persons who were not on oath. They cannot be admitted as proof at this Trial.

THE PRESIDENT: Is that all you have to say?

DR. MERKEL: Yes, sir.

THE PRESIDENT: We will hear M. Dubost answer.

M. DUBOST: Mr. President, the Charter, which goes so far as to admit evidence of public knowledge, has not fixed any rules as to the manner in which this evidence, being submitted to you as proof, shall be presented. The Charter leaves the Tribunal to decide on this or that document. The Charter leaves the Tribunal free to decide whether such or such method of investigation is acceptable. The way in which these investigations have been carried out is regular according to the customs and usages of my country. As a matter of fact, it is usual for all official records of the police and gendarmerie to be accepted without the witnesses being under oath. Moreover, according to the stipulations of the Charter, all investigations made to disclose war crimes should be held as authentic proof. Article 21 says:

> "The Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes, and the records and findings of military or other Tribunal of any of the United Nations."

THE PRESIDENT: M. Dubost, is the document that you are reading to us either an official government document or a report, or is it an act or document of a committee set up in France?

M. DUBOST: This report, Mr. President, comes from the Sûreté Nationale. You can verify that by examining the second sheet of the copy which you have in your hand, at the top to the left: Direction Générale de la Sûreté Nationale. Commissariat Spécial de Saint Gingolph. Testimony of witnesses.

THE PRESIDENT: May we see the original document?

M. DUBOST: This document was submitted to the Secretary of the Tribunal. The Secretary has only to bring that document to you.

THE PRESIDENT: Very well. Is this a certified copy?

M. DUBOST: It is a copy certified by the Director of the Cabinet of the Ministry of Justice.

THE PRESIDENT: M. Dubost, I am told that the French Prosecutors have all the original documents and are not depositing them in the way it is done by the other prosecutors. Is that so?

M. DUBOST: The French Prosecutors submitted the originals of yesterday's session, and they were handed over this morning to Mr. Martin.

THE PRESIDENT: Well, we wish to see the original document. We understand it is in the hands of the French Secretary. We should like to see it.

M. DUBOST: I have sent for it, Mr. President. This document is a certified copy of the original, which is preserved in the archives of the French Office for Inquiry into War Crimes. This certification was made, on the one hand, by the French Delegate of the Prosecution—you will see the signature of M. de Menthon on the document you have—on the other, by the Director of the Cabinet of the Minister of Justice, M. Zambeaux, with the official seal of the French Ministry of Justice.

THE PRESIDENT: It does appear to be a governmental document. It is the document of a committee set up by France for the investigation of war crimes, is it not?

M. DUBOST: Mr. President, it is a document which comes from the Office of National Security (Direction Générale de la Sûreté Nationale), which was set up in connection with an investigation of War Crimes as prescribed by our French Office for Inquiry into War Crimes. The original remains in Paris at the War Crimes office, but the certified copy which you have was signed by the Director of the Cabinet of the Ministry of Justice in Paris.

THE PRESIDENT: Yes, M. Dubost, I was not upon the question of whether it was a true document or not; the question I was upon was whether or not it was, within Article 21, either a governmental document or a report of the United Nations, or a document of a committee set up in France for the investigation of War Crimes; and I was asking whether it is, and it appears to be so. It is, is it not?

M. DUBOST: Yes, Your Honor.

THE PRESIDENT: Do you wish to add anything to what you have said?

M. DUBOST: No, I have nothing to add.

THE PRESIDENT: Now, Dr. Merkel, you may speak.

DR. MERKEL: I should only like to stress briefly that these statements which are presented here are not statements of an official government agency and cannot be considered as governmental records. Rather, they are only minutes which have been taken in police offices and thus can in no way be authentic declarations of a government or of an investigating committee. I emphasize once more that these declarations, which have certainly been taken—

partially at least—in minor police precincts, have not been made under oath and do not represent sworn statements; and I have to protest firmly against their being considered as evidence here.

THE PRESIDENT: Do you wish to add anything?

DR. MERKEL: No.

THE PRESIDENT: Who is M. Binaud?

M. DUBOST: He is the Police Inspector of the Special Police, who was attached to the Special Commissariat of Saint Gingolph.

I must correct an error made by the Defense Counsel, who said this was a minor police office. This was a frontier post. The Special Commissariats at frontier posts are all important offices even though they are located in very small towns. I think that is the same in all countries.

THE PRESIDENT: Well, M. Dubost, you understand what the problem is? It is a question of the interpretation of Article 21.

M. DUBOST: I understand.

THE PRESIDENT: The Tribunal requires your assistance upon that interpretation, as to whether this document does come under the terms of Article 21. If you have anything to say upon that subject we will be glad to hear it.

M. DUBOST: Mr. President, it seems to me impossible that the Tribunal should rule out this and similar documents which I am going to present, for all these documents bear, for authentication, not only the signature of the French representative at this Tribunal but that of the Delegate of the Minister of Justice to the War Crimes Commission as well. Examine the stamp beside the second signature. It is the seal.

THE PRESIDENT: Do not go too fast; tell us where the signatures are.

M. DUBOST *[Indicating on the document.]:* Here, Your Honors, is a notation of the release of this document by the Office for Inquiry into War Crimes to the French Prosecutor as an element of proof and below, the signature of the Director of the Cabinet of the French Minister of Justice, the Keeper of the Seals, and in addition, over this signature, the seal of the Minister of Justice. You may read: "Office for Inquiry into War Crimes."

THE PRESIDENT: Is this the substance of the matter: That this was an inquiry by the police into these facts; and that police inquiry was recorded; and then the Minister of Justice, for the purposes of this Trial, adopted that police report? Is that the substance of it?

M. DUBOST: That is correct, Mr. President. I think that we agree. The Office for Inquiry into War Crimes in France is directly attached to the Ministry of Justice. It carries out investigations. These investigations are made by the police authorities, such as M. Binaud, Inspector of Special Police, attached to the Special Commissariat of Saint Gingolph.

THE PRESIDENT: The Tribunal would like to know when the service of inquiry into War Crimes was established.

M. DUBOST: I cannot give you the exact date from memory, but this service was set up in France the day after the liberation. It began to function in October 1944.

THE PRESIDENT: Was this service established after the police report was made?

M. DUBOST: In the month of September or October.

THE PRESIDENT: September of what year?

M. DUBOST: In September 1944 this Office for Inquiry into War Crimes in France was established, and this service functioned as soon as the Provisional Government was set up in France.

THE PRESIDENT: Then the police inquiry was held under the service? You see, the police report is dated the 9th of October, and therefore the police report appears to have been made after the service had been set up. Is that right?

M. DUBOST: You have the evidence, Mr. President. If you look at the top of the second page at the left, it shows the beginning of the record and you read: "Purpose: Investigation of atrocities committed by Germans against the civilian population." These investigations were prescribed by the Office for Inquiry into War Crimes.

THE PRESIDENT: Yes. That would appear to be so if the service was really established in September and this police investigation is dated the 9th of October.

The Tribunal will adjourn for consideration of this question.

[A recess was taken.]

THE PRESIDENT: The Tribunal has considered the arguments which have been addressed to it and is of the opinion that the document offered by counsel for France is a document of a committee set up for the investigation of War Crimes within the meaning of Article 21 of the Charter. The fact that it is not upon oath does not prevent it being such a document within Article 21, of which the Tribunal is directed to take judicial notice. The question

of its probative value would of course be considered under Article 19 of the Charter and therefore, in accordance with Article 19 and Article 21 of the Charter, the document will be admitted in evidence; and the objection of Counsel for the Gestapo is denied.

The Tribunal would wish that all original documents should be filed with the General Secretary of the Tribunal and that when they are being discussed in Court, the original documents should be present in Court at the time.

HERR LUDWIG BABEL (Counsel for the SS and SD): I have been informed that General Giraud and his family were probably deported to Germany upon the orders of Himmler, but that they were treated very well and that they were billeted in a villa; that they were brought back to France in good health; that things went well with them and that they are still well today. I do not see . . .

THE PRESIDENT: Counsel, forgive me for interrupting you, but the Tribunal are not now considering the case of General Giraud and his family. Are you unable to hear?

What I was saying was that you were making some application in connection with the deportation of General Giraud and were stating facts to us—what you allege to be facts—as to that deportation. The Tribunal is not considering that matter. The Tribunal has already ruled that it cannot take judicial notice of the facts as to General Giraud's deportation.

HERR BABEL: I was of the opinion that what I had to say might bring about an explanation by the Prosecution and might expedite the trial in that respect. That was the purpose of my inquiry.

THE PRESIDENT: I am merely pointing out to you that we are not now considering General Giraud's case.

M. DUBOST: If the Tribunal will permit me to continue? It seems to me necessary to come back to the proof which I propose to submit. I have to show that, through uniformity of methods, the tortures which were inflicted in each bureau of the German Police . . .

THE PRESIDENT: Have you finished the document we have just admitted?

M. DUBOST: Yes, Mr. President; I have completed this and I will now read from other documents. But first I would like to sum up the proofs which I have to submit this morning through the reading of these documents.

I said that I was going to demonstrate how through the uniformity of ill-treatment inflicted by all branches of the German Police upon prisoners under interrogation, we are able to trace a common will for which we cannot give you direct proof—as we did

yesterday, regarding hostages, by bringing you papers signed in particular by Keitel—but we shall arrive at it by a way just as certain, for this identity of method implies a uniformity of will which we can place only at the very head of the police, that is to say, the German Government, to which the defendants belonged.

This document, Number F-555, Exhibit Number RF-302, from which I have just read, refers to the ill-treatment of prisoners at Fort Montluc in Lyons.

I pass to Document Number F-556, which we shall submit as Exhibit Number RF-303, which relates to the prison regime at Marseilles.

The Tribunal will note that this is an official record drawn up by the military security service of Vaucluse concerning the atrocities committed by Germans upon political prisoners and that this record includes the written deposition of M. Mousson, chief of an intelligence service, who was arrested on 16 August 1943 and then transferred on 30 August 1943 to St. Pierre prison at Marseilles. At the last paragraph of the first page of this document we read:

"Transferred to Marseilles, St. Pierre prison, on 30 August 1943, placed in room P, 25 meters long, 5 meters wide. We are crammed up 75 and often 80. Two straw mattresses for three. Repulsive hygienic conditions: lice, fleas, bed-bugs, tainted food. For no reason at all comrades are beaten and put in cells for 2 or 3 days without food."

Following page, fourth paragraph:

"Taken into custody again 15 May in a rather brutal way"—this is the 4th paragraph—"I was imprisoned in the prison of Ste. Anne and . . . "

5th paragraph:

"Living conditions in Ste. Anne: deplorable hygiene; food supplied by National Relief."

Next page, second paragraph:

"Living conditions in Petites Beaumettes: Food, just enough to keep one alive; no packages; Red Cross gives many, but we receive few."

This concerns, I repeat, prisons entirely under control of the Germans. Regarding conditions at the prison of Poitiers, we submit Document Number F-558, Exhibit Number RF-304. A report is attached from the Press Section of the American Information Service in Paris, dated 18 October 1944. The Tribunal should know that all these reports were included with the documents which were presented by the French Office for Inquiry into War Crimes. We read under number two:

"M. Claeys was arrested 14 December 1943 by the Gestapo and imprisoned in the Pierre Levee Prison until 26 August 1944 . . .

"While in prison he asked for a mattress, as he had been wounded in the war. He was told that he would get it if he confessed. He had to sleep on 1 inch of straw on the ground. Seven men in one room 4 meters long, 2 meters wide, and 2.8 meters in height. . . . For 20 days did not go out of cell. WC was a great discomfort to him because of wounds. The Germans refused to do anything about it."

Paragraph 4(b).

"Another prisoner weighed 120 kilograms and lost 30 kilograms in a month. Was in isolation cell for a month. Was tortured there and died of gangrene of legs due to wounds caused by torture. Died after 10 days of agony alone and without help."

Paragraph 5.

"Methods of torture:

"(a) Victim was kept bent up by hands attached around right leg. Was then thrown on the ground and flogged for 20 minutes. If he fainted, they would throw a pail of water in his face. This was to make him speak.

"Mr. Francheteau was flogged like that four days out of six. In some cases, subject was not tied. If he fell they would pick him up by his hair, and go on.

"At other times the victim was put naked in a special punishment cell; his hands were tied to an iron grill above his head. He was then beaten until made to talk.

"(b) Beating as above was not common, but M. Claeys has friends who have seen electric tortures. One electric wire was attached to the foot and another wire placed at different points on the body."

Paragraph 6.

"The tortures were all the more horrible because the Germans in many cases had no clear idea of what information they wanted and just tortured haphazard."

And at the very end, the five last lines.

"One torture consisted in hanging up the victims by the hands, which were tied behind the back, until the shoulders were completely dislocated. Afterwards, the soles of the feet were cut with razor blades and then the victims were made to walk on salt."

Concerning the prisons of the north, I submit Document Number F-560, Exhibit Number RF-305. It also comes from the American War Crimes Commission. On Page 1, under the letter "A" you will find a general report of Professor Paucot on the atrocities committed by the Germans in Northern France and in Belgium. The report covers the activities of the German police in France, at Arras, Béthune, Lille, Valenciennes, Malo les Bains, La Madeleine, Quincy, and Loos; in Belgium, at Saint Gilles, Fort de Huy, and Camp de Belveroo. This report is accompanied by 73 depositions of victims. From examination of these testimonies the fact emerges that the brutality, the barbarity of methods used during the interrogations was the same in the various places cited.

This synthesis which I have just mentioned is from the American report. It seems to me unnecessary to stress this as it is confirmed on the first page. The Tribunal can read further on Pages 4, 5, 6, and 7 a detailed description of the atrocities, systematic and all identical, which the German police inflicted to force confessions.

On Page 5, the fifth paragraph, I quote:

"A prisoner captured while trying to escape was delivered in his cell to the fury of police dogs who tore him to pieces."

On Page 17, second paragraph, of the German text (Page 14 of the French text) there is the report of M. Prouille, which, by exception, I shall read because of the nature of the facts. I quote:

"Condemned by the German Tribunal to 18 months of imprisonment for possessing arms and after having been in the prisons of Arras, Béthune and Loos, I was sent to Germany.

"As a result of ill-treatment in eastern Prussia I was obliged to have my eyes looked after. Having been taken to an infirmary, a German doctor put drops in my eyes. A few hours later, after great suffering, I became blind. After spending several days in the prison of Fresnes, I was sent to the clinic of Quinze-Vingts in Paris. Professor Guillamat, who examined me, certified that my eyes had been burned by a corrosive agent."

Under the Number F-561 I shall read a document from the American War Crimes Commission, which we submit as Exhibit Number RF-306. The Tribunal will find on Page 2 the proof that M. Herrera was present at tortures inflicted on numerous persons, and saw a Pole, by the name of Riptz, have the soles of his feet burned. Then his head was split open with a spanner. After the wound had healed he was shot. I quote:

"Commander Grandier, who had had a leg fractured in the war of 1914, was threatened by those who conducted the interrogations with having his other leg broken and this was

actually done. When he had half revived, as a result of a hypodermic injection, the Germans did away with him."

We do not want to use more of your time than is necessary, but the Tribunal should know these American official documents in entirety, all of which show in a very exact way the tortures carried out by the various German police services in numerous regions of France, and give evidence of the similarity of the methods used.

The following document is Number F-571, which we submit as Exhibit Number RF-307, and of which we shall read only one four-line paragraph:

"M. Robert Vanassche, from Tourcoing, states: 'I was arrested the 22 February 1944 at Mouscron in Belgium by men belonging to the Gestapo who were dressed in civilian clothing. During the interrogation they were wearing uniforms . . . .'"

I skip a paragraph.

"'I was interrogated for the second time at Cand in the main German prison, where I remained 31 days. There I was locked up for 2 or 3 hours in a sort of wooden coffin where one could breathe only through three holes in the top.'"

Further, the same document:

"M. Rémy, residing at Armentières, states: 'Arrested 2 May 1944 at Armentières, I arrived at the Gestapo, 18 Rue François Debatz at La Madelaine about 3 o'clock the same day. I was subjected to interrogation on two different occasions. The first lasted for about an hour. I had to lie on my stomach and was given about 120 lashes. The second interrogation lasted a little longer. I was lashed again, lying on my stomach. As I would not talk, they stripped me and put me in the bath tub. The 5th of May I was subjected to a new interrogation at Loos. That day they hung me up by my feet and rained blows all over my body. As I refused to speak, they untied me and put me again on my stomach. When pain made me cry out, they kicked me in the face with their boots. As a result I lost 17 lower teeth . . . .'"

The names of two of the torturers follow, but are of no concern to us here. We are merely trying to show that the torturers everywhere used the same methods. This could have been done only in execution of orders given by their chiefs.

I will further quote the testimony of M. Guérin:

"... as I would not admit anything, one of the interrogators put my scarf around my mouth to stifle my cries. Another German policeman took my head between his legs and two others, one on each side of me, beat me with clubs over

the loins. Each of them struck me 25 times.... This lasted over two hours. The next morning they began again and it lasted as long as the day before. These tortures were inflicted upon me because, on 11 November, I with my comrades of the resistance had taken part in a demonstration by placing a wreath on the monument to the dead of the 1914-18 war...."

I now quote the report of Mr. Alfred Deudon. Here is the ill-treatment to which he was subjected:

"18 August, sensitive parts were struck with a hammer. 19 August, was held under water; 20 August, my head was squeezed with an iron band; 21 and 24 August, I was chained day and night; 26 August, I was chained again day and night; and at one time hung up by the arms."

I will now read an extract from the report of M. Delltombe, arrested by the Gestapo 14 June 1944:

"Thursday, 15 June, at 8 o'clock in the morning, I was taken to the torture cellar. There they demanded that I should confess to the sabotage which I had carried out with my groups and denounce my comrades as well as name my hiding places. Because I did not answer quickly enough, the torture commenced. They made me put my hands behind my back. They put on special handcuffs and hung me up by my wrists. Then they flogged me, principally on the loins, and in the face. That day the torture lasted 3 hours.

"Friday, 16 June, the same thing took place; but only for an hour and a half, for I could not stand it any longer; and they took me back to my cell on a stretcher.

"Saturday the tortures began again with even more severity. Then I was obliged to confess my sabotage, for the brutes stuck needles in my arms. After that they left me alone until 10 August; then they had me called to the office and told me I was condemned to death. I was put on a train of deportees going to Brussels, from which I was freed on 3 September by Brussels patriots.

"...women were subjected to the same treatment as men. To the physical pain, the sadism of the torturers added the moral anguish, especially mortifying for a woman or a young girl, of being stripped nude by her torturers. Pregnancy did not save them from lashes. When brutality brought about a miscarriage, they were left without any care, exposed to all the hazards and complications of these criminal abortions."

This is the text of the summary drawn up by the American officer who carried out this investigation.

Here is the report of Madame Sindemans, who was arrested in Paris 24 February 1944:

"... by four soldiers, each armed with a submachine gun, and two other Germans in civilian clothes holding revolvers.

"Having looked into my handbag, they found three identification cards. Then they searched my room and discovered the pads and stamp of the Kommandantur and some German passes and employment cards which I had succeeded in stealing from them the day before ....

"Immediately, they placed handcuffs upon me and took me to be interrogated. When I gave no reply, they slapped me in the face with such force that I fell from my chair. Then they struck me with a rubber ring across the face. This interrogation began at 10 o'clock in the morning and ended at 11 o'clock that night. I must tell you that I had been pregnant for 3 months."

We shall submit now Documents F-563 and 564 under the one number Exhibit Number RF-308. It is a report concerning the atrocities committed by the Gestapo in Bourges. We shall read a part of this report.

THE PRESIDENT: M. Dubost, how do you establish what this document is? It appears to be the report of M. Marc Toledano.

M. DUBOST: That is correct, Mr. President. This report, with the rest of the documents in the same bundle, was incorporated in the document presented by the French Office for Inquiry into War Crimes, as is evident from the official signature of M. Zambeaux on the original, which is in the hands of the Secretary of the Court. I shall read the first page of the original:

"I, the undersigned, Madame Bondoux, supervisor at the prison in Bourges, certify that nine men, mostly youths, were subjected to abominable treatment. They remained with their hands bound behind their backs and with chains on their feet for 15 to 20 days; it was absolutely impossible for them to take their food in a normal way and they were screaming with hunger. In the face of this situation several of the ordinary criminal prisoners showed their willingness to help these martyrs by making small packets from their own rations which I had passed to them in the evening. A certain German supervisor, whom I knew under his first name of Michel, threw their bread in a corner of the cell, and at night came to beat them. All these young men were shot on 20 November 1943.

"Then, too, a woman named Hartwig, who lived at Chevannes, I believe, told me that she had remained for 4 days

bound to a chair. At all events, I can testify that her body was completely bruised."

We read in the statement of M. Labussiere, who is a captain of the reserve and a teacher at Marseilles-les-Aubigny:

"... On the 11th I was twice flogged with a lash. I had to bend over a bench and the muscles of my thighs and calves were fully stretched. At first I received some 30 lashes with a heavy whip, then another instrument was used which had a buckle at the end. I then was struck on the buttocks, on the thighs, and on the calves. To do this my torturer got up on a bench and made me spread my legs. Then with a very thin thong he finished off by giving me some 20 more biting lashes. When I picked myself up I was dizzy and I fell to the ground. I was always picked up again. Needless to say, the handcuffs were never taken off my wrists..."

I recoil from reading the remainder of this testimony. The details which precede are atrocious.

"At 10 o'clock on the 12th, after having beaten a woman, Paoli came to find me and said: 'Dog, you have no heart. It was your wife I have just beaten. I'll go on doing it as long as you refuse to talk.' He wanted me to give the place of our meetings and the names of my comrades."

On the following line:

"... on the 14th at 6 o'clock in the evening I was taken once again to the torture chamber. I could hardly crawl. Before he let me come in, Paoli said: 'I give you 5 minutes to tell me all you know. If after these 5 minutes you've said nothing, you'll be shot at 3 o'clock; your wife will be shot at six, and your boy will be sent to Germany.'"

We read that after signing the record of the interrogation his torturer said to him:

"'Look at yourself! See what we can make of a man in 5 days! You haven't seen the finish yet!' And he added: 'Now get out of here. You make us sick!'"—and the witness concluded with—"I was, in fact, covered with filth from head to foot. They put me in a cart and took me back to my cell.... During those 5 days I had certainly received more than 700 strokes from a lash...."

A large hematosis (blood clot) appeared on both his buttocks. A doctor had to operate. His comrades in custody would not go near him because of the foul smell from the abscesses covering his body as a result of the ill-treatment. On 24 November, the date on which he was interrogated, he had not yet recovered from his wounds.

His testimony concludes with a general statement of the methods of torture which were used:

"1) The lash.

"2) The bath: The victim was plunged headfirst into a tub full of cold water until he was asphyxiated. Then they applied artificial respiration. If he would not talk they repeated the process several times consecutively. With his clothes soaking, he spent the night in a cold cell.

"3) Electric current: The terminals were placed on the hands, then on the feet, in the ears, and then one in the anus and another on the end of the penis.

"4) Crushing the testicles in a press specially made for the purpose. Twisting the testicles was frequent.

"5) Hanging: The patient's hands were handcuffed together behind his back. A hook was slipped through his handcuffs and the victim was lifted by a pulley. At first they jerked him up and down. Later, they left him suspended for varying, fairly long, periods. The arms were often dislocated. In the camp I saw Lieutenant Lefevre, who, having been suspended like that for more than 4 hours, had lost the use of both arms.

"6) Burning with a soldering lamp or with matches:

"On 2 July my comrade Laloue, a teacher from Cher, came to the camp. He had been subjected to most of these tortures at Bourges. One arm had been put out of joint and he was unable to move the fingers of his right hand as a result of the hanging. He had been subjected to flogging and electricity. Sharp-pointed matches had been driven under the nails of his hands and feet. His wrists and ankles had been wrapped with rolls of wadding and the matches had been set on fire. While they were burning, a German plunged a pointed knife into the soles of his feet several times and another lashed him with a whip. Phosphorous burns had eaten away several fingers as far as the second joint. Abscesses which had developed had burst and this saved him from blood poisoning."

Under the signature of one of the chiefs of the General Staff of the French Forces of the Interior, who freed the Department of Cher, M. Magnon—whose signature is authenticated by the French official authorities whom you know—we read that since the liberation of Bourges, 6 September 1944, an inspection of the Gestapo cellars disclosed an instrument of torture, a bracelet composed of several balls of hard wood with steel spikes. There was a device for tightening the bracelet round the victim's wrist.

This bracelet was seen by numerous soldiers and leaders of the Maquis of Manetou-Salon. It was in the hands of Adjutant Neuilly, now in the 1st Battalion of the 34th Demi-Brigade. A drawing is attached to this declaration. Commander Magnon certifies having seen the instrument described above.

We now submit Document F-565, from the military service of the department of Vaucluse, which becomes Exhibit Number RF-309. It is a repetition of the same methods. We do not consider it necessary to dwell upon them.

We will now turn to Document F-567, which we submit as Exhibit Number RF-310. It refers to the tortures practiced by the German police in Besançon. It is a deposition of M. Dommergues, a professor at Besançon. This deposition was received by the American War Crimes Commission—the mission of Captain Miller. We shall read about the statement of M. Dommergues, professor at Besançon:

> "He was arrested on 11 February 1944; was violently struck with a lash during the interrogation. When a woman who was being tortured uttered screams, they made M. Dommergues believe that it was his own wife. He saw a comrade hung up with a weight of 50 kilograms on each foot. Another had his eyes pierced with pins. A child lost its voice completely."

This is from the American War Crimes Commission, summing up M. Dommergues' deposition. This document includes a second part under the same Number F-567(b). We shall read some excerpts from this document.

THE PRESIDENT: One of the members has not got his document marked, and I want to know whose statement it is you are referring to. Is it Dr. Gomet?

M. DUBOST: It is not a statement; it is rather a letter sent by Dr. Gomet, Secretary of the Council of the Departmental College of Doubs of the National Order of Physicians. This letter was sent by him to the chief medical officer of the Feldkommandantur in Besançon on 11 September 1943. Here is the text of this letter:

> "Dear Doctor and Colleague,
>
> "I have the honor to deliver to you the note which I drafted at your request and sent to our colleagues of the department in a circular of 1 September.
>
> "My conscience compels me on the other hand, to take up another subject with you.
>
> "Quite recently I had to treat a Frenchman who had wounds and multiple ecchymosis on his face and body, as a result of the torture apparatus employed by the German security

service. He is a man of good standing, holding an important appointment under the French Government; and he was arrested because they thought he could furnish certain information. They could make no accusation against him, as is proved by the fact that he was freed in a few days, when the interrogation to which they wanted to subject him was finished.

"He was subjected to torture, not as a legal penalty or in legitimate defense; but for the sole purpose of forcing him to speak under stress of violence and pain.

"As for myself, representing the French medical body here, my conscience and a strict conception of my duty compel me to inform you of what I have observed in the exercise of my profession. I appeal to your conscience as a doctor and ask you whether by virtue of our mission of protecting the physical health of our fellow beings, which is the mission of every doctor, it is not our duty to intervene."

He must have had a reply from the German doctor, for Dr. Gomet writes him a second letter, and here is the text:

"Dear Doctor and Colleague,

"You were good enough to note the facts which I put before you in my letter of 11 September 1943 regarding the torture apparatus utilized by the German Security Service during the interrogation of a French official for whom I had subsequently to prescribe treatment. You asked me, as was quite natural, if you could visit the person in question yourself. I replied at our recent meeting that the person concerned did not know of the step which I had taken; and I did not know whether he would authorize me to give his name. I wish to emphasize, in fact, that I myself am solely responsible for this initiative. The person through whom I learned, by virtue of my profession, the facts which I have just related to you, had nothing to do with this report. The question is strictly professional. My conscience as a doctor has forced me to bring this matter to your attention. I advance only what I know from absolutely certain observation, and I guarantee the truth of my statement on my honor as a man, a physician, and a Frenchman.

"My patient was interrogated twice by the German Security Service about the end of August 1943. I had to examine him on 8 September 1943, that is to say, about 10 days after he left prison, where he had in vain asked for medical attention. He had a palpebral ecchymosis on the left side and abrasions in the region of his right temple, which he said were made with a sort of circle which they had placed upon his head

and which they struck with small clubs. He had ecchymosis on the backs of his hands, these having been placed, according to what he told me, in a squeezing apparatus. On the front of his legs there were still scars with scabs and small surface wounds—the result, he told me, of blows administered with flexible rods studded with short spikes.

"Obviously, I cannot swear to the means by which the ecchymosis and wounds were produced, but I note that their appearance is in complete agreement with the explanations given me.

"It will be easy for you, Sir, to learn if apparatus of the kind to which I allude is really in use in the German Security Service."

I pass over the rest.

THE PRESIDENT: It may be convenient for counsel and others to know that the Tribunal will not sit in open session tomorrow, as it has many administrative matters to consider. We will adjourn now until 2 o'clock.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: If Your Honors please, the Defendants Kaltenbrunner and Streicher will continue to be absent this afternoon.

M. DUBOST: We left off this morning at the enumeration of the tortures that had been practiced habitually by the Gestapo in the various cities in France where inquiries had been conducted; and I was proving to you, by reading numerous documents, that everywhere accused persons and frequently witnesses themselves—as seen in the last letter—were questioned with brutality and subjected to tortures that were usually identical. This systematic repetition of the same methods of torture proves, we believe, that a common plan existed, conceived by the German Government itself.

We still have a great many testimonies, all extracts from the report of the American services, concerning the prisons at Dreux, at Morlaix, and at Metz. These testimonies are given in Documents F-689, 690, and 691, which we now submit as Exhibits RF-311, 312, and 313.

With your permission, Your Honor, I will now refrain from further citing these documents. The same acts were systematically repeated. This is also true of the tortures inflicted in Metz, Cahors, Marseilles, and Quimperlé, dealt with in Documents F-692, 693, 565, and 694, which we are presenting to you as Exhibits RF-314, 314 (bis), 309, and 315.

We now come to one of the most odious crimes committed by the Gestapo, and it is not possible for us to keep silent about it in spite of our desire to shorten this statement. This is the murder of a French officer by the Gestapo at Clermont-Ferrand, a murder which was committed under extremely shameful conditions, in contempt of all the rules of international law; for it was perpetrated in a region where, according to the terms of the Armistice, the Gestapo had nothing to do and had no right to be.

The name of this French officer was Major Henri Madeline. His case is given in Document F-575, which we submit as Exhibit Number RF-316. He was arrested on 1 October 1943 at Vichy. His interrogation began in January 1944; and he was struck in such a savage manner, in the course of the first interrogation, that when he was brought back to his cell his hand was already broken.

On 27 January this officer was questioned again on two occasions, during which he was struck so violently that when he returned to his cell his hands were so swollen that it was impossible to see the handcuffs he had on. The following day the German police came back to fetch him from his cell, where he had passed the whole night

in agony. He was still alive; they threw him down on a road a kilometer away from a small village in the Massif Central, Perignant-Les-Sarlièves, to make it look as if he had been the victim of a road accident. His body was found later. A post mortem showed that the thorax was completely crushed, with multiple fractures of the ribs and perforation of the lungs. There was also dislocation of the spine, fracture of the lower jaw, and most of the tissues of the head were loose.

Alas, we all know that a few French traitors did assist in the arrests and in the misdeeds of the Gestapo in France under the orders of German officers. One of these traitors, who was arrested when our country was liberated, has described the ill-treatment that had been inflicted on Major Madeline. The name of this traitor is Verière and we are going to read a passage from his statement:

> "He was beaten with a whip and a bludgeon; blows on his fingernails crushed his fingers. He was forced to walk barefooted on tacks. He was burned with cigarettes. Finally, he was beaten unmercifully and taken back to his cell in a dying condition."

Major Madeline was not the only victim of such evil treatment which several German officers of the Gestapo helped to inflict. This inquiry has shown:

> "... that 12 known persons succumbed to the tortures inflicted by the Gestapo of Clermont-Ferrand, that some women were stripped naked and beaten before they were raped."

I am anxious not to lengthen these proceedings by useless citations. I believe the Tribunal will consider as confirmed the facts that I have presented. They are contained in the document that we are placing before you, and in it the Tribunal will find, *in extenso,* the written testimonies taken on the day which followed the liberation. This systematic repetition of the same criminal proceedings in order to achieve the same purpose—to bring about a reign of terror—was not the isolated act of a subordinate having authority in our country only and remaining outside the control of his government or of the Army General Staff. An examination of the methods of the German police in all countries of the West shows that the same horrors, the same atrocities, were repeated systematically everywhere. Whether in Denmark, Belgium, Holland, or Norway, the interrogations were everywhere and at all times conducted by the Gestapo with the same savagery, the same contempt of the rights of self defense, the same contempt of human dignity.

In the case of Denmark, we cite a few lines from a document already submitted to the Tribunal. It is Document F-666 (Exhibit Number RF-317), which should be the sixth in your document book.

It contains an official Danish report of October 1945, concerning the German major war criminals appearing before the International Military Tribunal. On Page 5, under the title, "Torture", we read in a brief résumé everything that concerns the question with regard to Denmark:

> "In numerous cases the German police and their assistants used torture in order to force the prisoners to confess or to give information. This fact is supported by irrefutable evidence. In most cases the torture consisted of beating with a rod or with a rubber bludgeon. But also far more flagrant forms of torture were used including some which will leave lasting injuries. Bovensiepen has stated that the order to use torture in certain cases emanated from higher authorities, possibly even from Göring as Chief of the Geheime Staatspolizei but, at any rate, from Heydrich. The instructions were to the effect that torture might be used to compel persons to give information that might serve to disclose subversive organizations directed against the German Reich, but not for the purpose of making the delinquent admit his own deeds."

A little further on:

> "The means were prescribed, namely, a limited number of strokes with a rod. Bovensiepen does not remember whether the maximum limit was 10 or 20 strokes. An officer from the criminal police (Kriminal Kommissar, Kriminalrat) was there and also, when circumstances so required, there was a medical officer present."

The above-mentioned instructions were modified several times for minor details, and all members of the criminal police were notified.

The Danish Government points out, in conclusion, two particularly repugnant cases of torture inflicted on Danish patriots. They are the cases of Professor Mogens Fog and the ill-treatment inflicted on Colonel Ejnar Thiemroth. Finally, the Tribunal can read that Doctor Hoffmann-Best states that his official prerogatives did not authorize him to prevent the use of torture.

In the case of Belgium we should recall first of all the tortures that were inflicted in the tragically famous camp of Breendonck, where hundreds, even thousands of Belgian patriots, were shut up. We shall revert to Breendonck when we deal with the question of concentration camps. We shall merely quote from the report of the Belgian War Crimes Commission a few definite facts in support of our original affirmation, that all acts of ill-treatment imputed to the Gestapo in France were reproduced in identical manner in all the occupied western countries. The documents which we shall submit to you are to be found in the small document book under Numbers F-942(a), 942(b), Exhibits RF-318, 319.

This report comprises minutes which I will not read, inasmuch as it contains testimonies which are analogous to, if not identical with, those that were read concerning France. However, on Pages 1 and 2 you will find the statement made by M. Auguste Ramasl and a statement made by M. Paul Desomer, which show that the most extreme cruelties were inflicted on these men and that, when they emerged from the offices of the Gestapo, they were completely disfigured and unable to stand.

And now I submit to you with regard to Belgium, Documents F-641(a) and F-641(b), which now become Exhibits RF-320 and 321. I shall not read them. They, too, contain reports describing tortures similar to those I have already mentioned. If the Court will accept the cruelty of the methods of torture employed by the Gestapo as having been established, I will abstain from reading all the testimonies which have been collected.

In the case of Norway our information is taken from a document submitted by the Norwegian Government for the punishment of the major war criminals. In the French translation of this document—Number UK-79, which we present as Exhibit Number RF-323—on Page 2, the Tribunal will find the statement of the Norwegian Government according to which numerous Norwegian citizens died from the cruel treatment inflicted on them during their interrogations. The number of known cases for the district of Oslo, only, is 52; but the number in the various regions of Norway is undoubtedly much higher. The total number of Norwegian citizens who died during the occupation in consequence of torture or ill-treatment, execution, or suicide in political prisons or concentration camps is approximately 2,100.

In Paragraph B, Page 2 of the document, there is a description of the methods employed in the services of the Gestapo in Norway which were identical with those I have already described.

In the case of Holland, we shall submit Document Number F-224, which becomes Exhibit Number RF-324 and which is an extract from the statement of the Dutch Government for the prosecution and punishment of the major German war criminals. This document bears the date of 11 January 1946. It has been distributed and should now be in your hands. The Tribunal will find in this document a great number of testimonies which were collected by the Criminal Investigation Department, all of which describe the same ill-treatment and tortures as those already known to you and which were committed by the services of the Gestapo in Holland.

In Holland, as elsewhere, the accused were struck with sticks. When their backs were completely raw from beating they were sent back to their cells. Sometimes icy water was sprayed on them and sometimes they were exposed to electrical current. At Amersfoort

a witness saw with his own eyes a prisoner, who was a priest, beaten to death with a rubber truncheon. The systematic character of such tortures seems to me definitely established.

The document of the Danish Government is a first proof in support of my contention that these systematic tortures were deliberately willed by the higher authorities of the Reich and that the members of the German Government are responsible for them. In any case these systematic tortures were certainly known, because there were protests from all European countries against such methods, which plunged us again into the darkness of the Middle Ages; and at no time was an order given to forbid such methods, at no time were those who executed them repudiated by their superiors. The methods followed were devised to reinforce the policy of terrorism pursued by Germany in the western occupied countries—a policy of terrorism which I already described to you when I dealt with the question of hostages.

It is now incumbent on me to designate to you by name those among the accused whom France, as well as other countries in the West, considers to be especially guilty in having prepared and developed this criminal policy carried out by the Gestapo. We maintain that they are Bormann and Kaltenbrunner who, because of their functions, must have known more than any others, about those deeds. Although we are not in possession of any document signed by them in respect to the western countries, the uniformity of the acts we have described to you and the fact that they were analogous and even identical, in spite of the diversity of places, enables us to assert that all these orders were dictated by a single will; and among the accused, Bormann and Kaltenbrunner were the direct instruments of that single will.

Everything I described to you here concerned the procedure prior to judgment. We know with what ferocity this procedure was applied. We know that this ferocity was intentional. It was known to the populations of the invaded countries, and its purpose was to create an atmosphere of real terror around the Gestapo and all the German police services.

After the examination came the judicial proceedings. These proceedings were, as we see them, only a parody of justice. The prosecution was based on a legal concept which we dismiss as being absolutely inhuman. That part will be dealt with by my colleague, M. Edgar Faure, in the second part of the statement on the German atrocities in the western countries: crimes against the spirit.

It is sufficient for us to know that the German courts which dealt with crimes committed by the citizens of the occupied western countries, which did not accept defeat, never applied but one penalty, the death penalty, and that in execution of an inhuman order by

one of these men, Keitel; an order which appears in Document Number L-90, already submitted to you by my United States colleagues, under Document Number USA-503. It is the penultimate in your large document book, Line 5:

> "If these offenses are punished with imprisonment or even with hard labor for life, it will be interpreted as a sign of weakness. Effective and lasting intimidation can only be achieved either by capital punishment or by measures which leave the relatives and the population in the dark about the fate of the culprit. Deportation to Germany serves this purpose."

Is it necessary to make any comment? Can we be surprised at this war leader giving orders to justice? What we heard about him yesterday makes us doubt that he is merely a military leader. We have quoted you his own words, "Effective and lasting intimidation can only be achieved by capital punishment." Are such orders, given to courts of justice, compatible with military honor? "If in effect"—Keitel goes on to say in this Document—"the courts are unable to pronounce the death penalty, then the man must be deported." I think you will share my opinion that, when such orders are given to courts, one can no longer speak of justice. In execution of this order, those of our compatriots who were not condemned to death and immediately executed were deported to Germany.

We now come to the third part of my statement: the question of deportation.

It remains for me to explain to you in what circumstances the deportations were carried out. If prior to that the Tribunal could suspend the sitting for a few minutes, I should be very grateful.

THE PRESIDENT: How long would you like us to suspend, M. Dubost?

M. DUBOST: Perhaps ten minutes, Your Honor.

[A recess was taken.]

DR. OTTO NELTE (Counsel for the Defendant Keitel): The French Prosecutor just now read from Document L-90, the so-called "Nacht und Nebel" decree. He referred to this decree and cited the words:

> "Effective and lasting intimidation can only be achieved by capital punishment, or by measures which leave the relatives and the population in the dark about the fate of the culprit."

The French Prosecutor mentioned that these were the very words of Keitel.

In connection with a previous case the President and the Tribunal have pointed out that it is not permissible to quote only a part of a document when by so doing a wrong impression might be created. The French Prosecutor will agree with me when I say that Decree L-90 makes it quite clear that these are not the words of the Chief of the OKW, but of Hitler. In this short extract it says:

> "It is the carefully considered will of the Führer that, when attacks are made in occupied countries against the Reich or against the occupying power, the culprits must be dealt with by other measures than those decreed heretofore. The Führer is of the opinion that if these offenses are punished with imprisonment, or even with hard labor for life, this will be looked upon as a sign of weakness. Effective and lasting intimidation can only be achieved by capital punishment, *et cetera.*"

The decree then goes on to say:

> "The enclosed directives on how to deal with the offences comply with the Führer's point of view. They have been examined and approved by him."

I take the liberty to point out this fact, because it was just this decree, which is known as the notorious "Nacht und Nebel" decree, which in its formulation and execution was opposed by Keitel. That is why I am protesting.

M. DUBOST: I owe you an explanation. I did not read the decree in full because the Tribunal knows it. In accordance with the customary procedure of this Tribunal, it has been read. It is not necessary to read it again. Moreover, I knew that the accused Keitel had signed it, but that Hitler had conceived it. Therefore, I made allusion to the military honor of this general, who was not afraid to become the lackey of Hitler.

THE PRESIDENT: The Tribunal understood from your mentioning of the fact that the document had already been submitted to the Tribunal and does not think that there was anything misleading in what you did.

M. DUBOST: If the Tribunal accepts this, we shall proceed to the hearing of a witness, a Frenchman.

[The witness, Lampe, took the stand.]

THE PRESIDENT: This is your witness, is it not? Is this the witness you wish to call?

M. DUBOST: Yes.

THE PRESIDENT: *[To the witness]* Will you stand up. What is your name?

M. MAURICE LAMPE (Witness): Lampe, Maurice.

THE PRESIDENT: Will you repeat this oath after me: Do you swear to speak without hate or fear, to say the truth, all the truth, only the truth?

[The witness repeated the oath in French.]

THE PRESIDENT: Raise the right hand and say, I swear.

LAMPE: I swear.

THE PRESIDENT: Spell your name.

LAMPE: L-A-M-P-E.

THE PRESIDENT: Thank you.

M. DUBOST: You were born in Roubaix on the 23rd of August 1900. Were you deported by the Germans?

LAMPE: Yes.

THE PRESIDENT: You may sit down.

LAMPE: Thank you, Mr. President.

M. DUBOST: You were interned in Mauthausen?

LAMPE: That is correct.

M. DUBOST: Will you testify as to what you know concerning this internment camp?

LAMPE: Willingly.

M. DUBOST: Say what you know.

LAMPE: I was arrested on 8 November 1941. After two years and a half of internment in France, I was deported on 22 March 1944 to Mauthausen in Austria. The journey lasted three days and three nights under particularly vile conditions—104 deportees in a cattle truck without air. I do not believe that it is necessary to give all the details of this journey, but one can well imagine the state in which we arrived at Mauthausen on the morning of the 25th of March 1944, in weather 12 degrees below zero. I mention, however, that from the French border we traveled in the trucks, naked.

When we arrived at Mauthausen, the SS officer who received this convoy of about 1,200 Frenchmen informed us in the following words, which I shall quote from memory almost word for word:

> "Germany needs your arms. You are, therefore, going to work; but I want to tell you that you will never see your families again. When one enters this camp, one leaves it by the chimney of the crematorium."

I remained about three weeks in quarantine in an isolated block, and I was then detailed to work with a squad in a stone quarry. The quarry at Mauthausen was in a hollow about 800 metres from the camp proper. There were 186 steps down to it. It was particularly painful torture, because the steps were so rough-hewn that to climb them even without a load was extremely tiring.

One day, 15 April 1944, I was detailed to a team of 12 men—all of them French—under the orders of a German "Kapo," a common criminal, and of an SS man.

We started work at seven o'clock in the morning. By eight o'clock, one hour later, two of my comrades had already been murdered. They were an elderly man, M. Gregoire from Lyons, and a quite young man, Lefevre from Tours. They were murdered because they had not understood the order, given in German, detailing them for a task. We were very frequently beaten because of our inability to understand the German language.

On the evening of that first day, 15 April 1944, we were told to carry the two corpses to the top, and the one that I, with three of my comrades, carried was that of old Gregoire, a very heavy man; we had to go up 186 steps with a corpse and we all received blows before we reached the top.

Life in Mauthausen—and I shall declare before this Tribunal only what I myself saw and experienced—was a long cycle of torture and of suffering. However, I would like to recall a few scenes which were particularly horrible and have remained more firmly fixed in my memory.

During September, I think it was on the 6th of September 1944, there came to Mauthausen a small convoy of 47 British, American, and Dutch officers. They were airmen who had come down by parachute. They had been arrested after having tried to make their way back to their own lines. Because of this they were condemned to death by a German tribunal. They had been in prison about a year and a half and were brought to Mauthausen for execution.

On their arrival they were transferred to the bunker, the camp prison. They were made to undress and had only their pants and a shirt. They were barefooted. The following morning they were at the roll call at seven o'clock. The work gangs went to their tasks. The 47 officers were assembled in front of the office and were told by the commanding officer of the camp that they were all under sentence of death.

I must mention that one of the American officers asked the commander that he should be allowed to meet his death as a soldier. In reply, he was bashed with a whip. The 47 were led barefoot to the quarry.

For all the prisoners at Mauthausen the murder of these men has remained in their minds like a scene from Dante's Inferno. This is how it was done: At the bottom of the steps they loaded stone on the backs of these poor men and they had to carry them to the top. The first journey was made with stones weighing 25 to

30 kilos and was accompanied by blows. Then they were made to run down. For the second journey the stones were still heavier; and whenever the poor wretches sank under their burden, they were kicked and hit with a bludgeon, even stones were hurled at them.

This went on for several days. In the evening when I returned from the gang with which I was then working, the road which led to the camp was a bath of blood. I almost stepped on the lower jaw of a man. Twenty-one bodies were strewn along the road. Twenty-one had died on the first day. The twenty-six others died the following morning. I have tried to make my account of this horrible episode as short as possible. We were not able, at least when we were in camp, to find out the names of these officers; but I think that by now their names must have been established.

In September 1944 Himmler visited us. Nothing was changed in the camp routine. The work gangs went to their tasks as usual, and I had—we had—the unhappy opportunity of seeing Himmler close. If I mention Himmler's visit to the camp—after all it was not a great event—it is because that day they presented to Himmler the execution of fifty Soviet officers.

I must tell you that I was then working in a Messerschmidt gang, and that day I was on night shift. The block where I was billeted was just opposite the crematorium; and in the execution room, we saw—I saw—these Soviet officers lined up in rows of five in front of my block. They were called one by one. The way to the execution room was relatively short. It was reached by a stairway. The execution room was under the crematorium.

The execution, which Himmler himself witnessed—at least the beginning of it, because it lasted throughout the afternoon—was another particularly horrible spectacle. I repeat, the Soviet Army officers were called one by one, and there was a sort of human chain between the group which was awaiting its turn and that which was in the stairway listening to the shots which killed their predecessors. They were all killed by a shot in the neck.

M. DUBOST: You witnessed this personally?

LAMPE: I repeat that on that afternoon I was in Block 11, which was situated opposite the crematorium; and although we did not see the execution itself, we heard every shot; and we saw the condemned men who were waiting on the stairway opposite us embrace each other before they parted.

M. DUBOST: Who were these men who were condemned?

LAMPE: The majority of them were Soviet officers, political commissars, or members of the Bolshevik Party. They came from Oflags.

M. DUBOST: I beg your pardon, but were there officers among them?

LAMPE: Yes.

M. DUBOST: Did you know where they came from?

LAMPE: It was very difficult to know from what camp they came because, as a general rule, they were isolated when they arrived in camp. They were taken either direct to the prison or else to Block 20, which was an annex of the prison, about which I shall have occasion . . .

M. DUBOST: How did you know they were officers?

LAMPE: Because we were able to communicate with them.

M. DUBOST: Did all of them come from prisoner-of-war camps?

LAMPE: Probably.

M. DUBOST: You did not really know?

LAMPE: No, we did not know. We were chiefly interested in finding out of what nationality they were and did not ask other details.

M. DUBOST: Do you know where the British, American, and Dutch officers came from, about whom you have just spoken and who were executed on the steps leading to the quarry?

LAMPE: I believe they came from the Netherlands, especially the Air Force officers. They had probably bailed out after having been shot down and had hidden themselves while trying to go back to their lines.

M. DUBOST: Did the Mauthausen prisoners know that prisoners of war, officers or noncommissioned officers, were executed?

LAMPE: That was a frequent occurrence.

M. DUBOST: A frequent occurrence?

LAMPE: Yes, very frequent.

M. DUBOST: Do you know about any mass executions of the men kept at Mauthausen?

LAMPE: I know of many instances.

M. DUBOST: Could you cite a few?

LAMPE: Besides those I have already described, I feel I ought to mention what happened to part of a convoy coming from Sachsenhausen which was executed by a special method. This was on 17 February 1945.

When the Allied armies were advancing, various camps were moved back toward Austria. Of a convoy of 2,500 internees which had left Sachsenhausen, only about 1,700 were left when they arrived at Mauthausen on the morning of the 17th of February. 800 had died or had been killed in the course of the journey.

The Mauthausen Camp was at that time, if I may use this expression, completely choked. So when the 1,700 survivors of this convoy arrived, Kommandant Dachmeier had selected 400 from among them. He encouraged the sick, the old, and the weak prisoners to come forward with the idea that they might be taken to the infirmary. These 400 men, who had either come forward of their own free will or had been arbitrarily selected, were stripped entirely naked and left for 18 hours in weather 18 degrees below zero, between the laundry building and the wall of the camp. The congestion...

M. DUBOST: You saw that yourself?

LAMPE: I saw it personally.

M. DUBOST: You are citing this as an actual witness, seen with your own eyes?

LAMPE: Exactly.

M. DUBOST: In what part of the camp were you at that time?

LAMPE: This scene lasted, as I said, 18 hours; and when we went in or came out of the camp we saw these unfortunate men.

M. DUBOST: Very well. Will you please continue? You have spoken of the visit of Himmler and of the execution of Soviet officers and commissars. Did you frequently see German personalities in the camp?

LAMPE: Yes, but I cannot give you the names.

M. DUBOST: You did not know them?

LAMPE: One could hardly mistake Himmler.

M. DUBOST: But you did know they were eminent personalities?

LAMPE: We did indeed. First of all, these personages were always surrounded by a complete staff, who went through the prison itself and particularly adjoining blocks.

If you will allow me, I would like to go on with my description of the murder of these 400 people from Sachsenhausen. I said that after selecting the sick, the feeble and the older prisoners, Dachmeier, the camp commander, gave orders that these men should be stripped entirely naked in weather 18 degrees below zero. Several of them rapidly got congestion of the lungs, but that did not seem fast enough for the SS. Three times during the night these men were sent down to the shower-baths; three times they were drenched for half an hour in freezing water and then made to come up without being dried. In the morning when the gangs went to work the corpses were strewn over the ground. I must add that the last of them were finished off with blows from an axe.

I now give the most positive testimony of an occurrence which can easily be verified. Among those 400 men was a captain in the French cavalry, Captain Dedionne, who today is a major in the Ministry of War. This captain was among the 400. He owes his life to the fact that he hid among the corpses and thus escaped the blows of the axe. When the corpses were taken to the crematorium he managed to get away across the camp, but not without having received a blow on the shoulder which has left a mark for life.

He was caught again by the SS. What saved him was probably the fact that the SS considered it very funny that a live man should emerge from a heap of corpses. We took care of him, we helped him, and we brought him back to France.

M. DUBOST: Do you know why this execution was carried out?

LAMPE: Because there were too many people in the camp; because the prisoners coming from all the camps that were falling back could not be drafted into working gangs at a quick enough pace. The blocks were overcrowded. That is the only explanation that was given.

M. DUBOST: Do you know who gave the order to exterminate the British, American, and Dutch officers whom you saw put to death in the quarry?

LAMPE: I believe I said these officers had been condemned to death by German tribunals.

M. DUBOST: Yes.

LAMPE: Probably a few of them had been condemned many months before and they were taken to Mauthausen for the sentence to be carried out. It is probable that the order came from Berlin.

M. DUBOST: Did you know under what conditions the "Revier" (infirmary) was built?

LAMPE: Here I have to state that the infirmary was built before my arrival at the camp.

M. DUBOST: So you are giving us indirect testimony?

LAMPE: Yes, indirect testimony. But I heard it from all the internees, also the SS themselves. The Revier was built by the first Soviet prisoners who arrived in Mauthausen. Four thousand Soviet soldiers died; they were murdered, massacred, during the construction of the 8 blocks of the Revier. These massacres made such a deep impression that the Revier was always referred to as the "Russen Lager" (Russian Camp). The SS themselves called the infirmary the Russian camp.

M. DUBOST: How many Frenchmen were you at Mauthausen?

LAMPE: There were in Mauthausen and its dependencies about 10,000 Frenchmen.

M. DUBOST: How many of you came back?

LAMPE: Three thousand of us came back.

M. DUBOST: There were some Spaniards with you also?

LAMPE: Eight thousand Spaniards arrived in Mauthausen in 1941, towards the end of the year. When we left, at the end of April 1945, there were still about 1,600. All the rest had been exterminated.

M. DUBOST: Where did these Spaniards come from?

LAMPE: These Spaniards came mostly from labor companies which had been formed in 1939 and 1940 in France, or else they had been delivered by the Vichy Government to the Germans direct.

M. DUBOST: Is this all you have to tell us?

LAMPE: With the permission of the Tribunal, I would like to cite another example of atrocity which remains clearly in my memory. This took place also during September 1944. I am sorry I cannot remember the exact date, but I do know it was a Saturday, because on Saturday at Mauthausen all the outside detachments had to answer evening roll call inside the camp. That took place only on Saturday nights and on Sunday mornings.

That evening the roll call took longer than usual. Someone was missing. After a long wait and searches carried out in the various blocks, they found a Russian, a Soviet prisoner, who perhaps had fallen asleep and had forgotten to answer roll call. What the reason was we never knew, but at any rate he was not present at roll call. Immediately the dogs and the SS went up to the poor wretch, and before the whole camp—I was in the front row, not because I wanted to be but because we were arranged like that—we witnessed the fury of the dogs let loose upon this unfortunate Russian. He was torn to pieces in the presence of the whole camp. I must add that this man, in spite of his sufferings, faced his death in a particularly noble manner.

M. DUBOST: What were the living conditions of the prisoners like? Were they all treated the same or were they treated differently according to their origin and nationality or, perhaps according to their ethnic type, their particular race, shall we say?

LAMPE: As a general rule the camp regime was the same for all nationalities, with the exception of the quarantine blocks and the annexes of the prison. The kind of work we did, the particular units to which we were attached, sometimes allowed us to get a little more than usual; for instance, those who worked in the

kitchens and those who worked in the stores certainly did get a little more.

M. DUBOST: Were, for instance, Jews permitted to work in the kitchens or the store rooms?

LAMPE: At Mauthausen the Jews had the hardest tasks of all. I must point out that, until December 1943, the Jews did not live more than three months at Mauthausen. There were very few of them at the end.

M. DUBOST: What happened in that camp after the murder of Heydrich?

LAMPE: In that connection there was a particularly dramatic episode. At Mauthausen there were 3,000 Czechs, 600 of whom were intellectuals. After the murder of Heydrich, the Czech colony in the camp was exterminated with the exception of 300 out of the 3,000 and six intellectuals out of the 600 that were in the camp.

M. DUBOST: Did anyone speak to you of scientific experiments?

LAMPE: They were commonplace at Mauthausen, as they were in other camps. But we had evidence which I think has been found: the two skulls which were used as paper weights by the chief SS medical officer. These were the skulls of two young Dutch Jews who had been selected from a convoy of 800 because they had fine teeth.

To make this selection the SS doctor had led these two young Dutch Jews to believe that they would not suffer the fate of their comrades of the convoy. He had said to them "Jews do not live here. I need two strong, healthy, young men for surgical experiments. You have your choice; either you offer yourselves for these experiments, or else you will suffer the fate of the others."

These two Jews were taken down to the Revier; one of them had his kidney removed, the other his stomach. Then they had benzine injected into the heart and were decapitated. As I said, these two skulls, with the fine sets of teeth, were on the desk of the chief SS doctor on the day of liberation.

M. DUBOST: At the time of Himmler's visit—I would like to come back to that question—are you certain that you recognized Himmler and saw him presiding over the executions?

LAMPE: Yes.

M. DUBOST: Do you think that all members of the German Government were unaware of what was taking place in Mauthausen? The visits you received, were they visits by the SS simply, or were they visits of other personalities?

LAMPE: As regards your first question, we all knew Himmler; and even if we had not known him, everyone in the camp knew of his visit. Also the SS told us a few days before that his visit was expected. Himmler was present at the beginning of the executions of the Soviet officers; but as I said a little while ago, these executions lasted throughout the afternoon; and he did not remain until the end. With regard to...

M. DUBOST: Is it possible that only the SS knew what happened in the camp? Was the camp visited by other personalities than the SS? Did you know the SS uniforms? The people you saw, the authorities you saw—did they all wear uniforms?

LAMPE: The personalities that we saw at the camp were, generally speaking, soldiers and officers. Some time afterward, a few weeks before the liberation, we had a visit from the Gauleiter of the Gau Oberdonau. We also had frequent visits from members of the Gestapo in plain clothes. The German population, that is, the Austrian population, were perfectly aware of what was going on at Mauthausen. The working squads were nearly all for work outside. I said just now that I was working at Messerschmidt's. The foremen were mobilized German civilians who, in the evening, went home to their families. They knew quite well of our sufferings and privations. They frequently saw men fetched from the shop to be executed, and they could bear witness to most of the massacres I mentioned a little while ago.

I should add that once we received—I am sorry I put it like that—once there arrived in Mauthausen 30 firemen from Vienna. They were imprisoned, I think, for having taken part in some sort of workers' activity. The firemen from Vienna told us that, when one wanted to frighten children in Vienna, one said to them, "If you are not good, I will send you to Mauthausen."

Another detail, a more concrete one: Mauthausen Camp is built on a plateau and every night the chimneys of the crematorium would light up the whole district, and everyone knew what the crematorium was for.

Another detail: The town of Mauthausen was situated 5 kilometers from the camp. The convoys of deportees were brought to the station of the town. The whole population could see these convoys pass. The whole population knew in what state these convoys were brought into the camp.

M. DUBOST: Thank you very much.

THE PRESIDENT: Does the Soviet Prosecutor wish to ask any questions?

GENERAL R. A. RUDENKO (Chief Prosecutor for the U.S.S.R.): I should like to ask a few questions. Can you tell me, Witness, why

was the execution of the 50 Soviet officers ordered? Why were they executed?

LAMPE: As regards the specific case of these 50 officers, I do not know the reasons why they were condemned and executed; but as a general rule, all Soviet officers, all Soviet commissars, or members of the Bolshevist Party were executed at Mauthausen. If a few among them succeeded in slipping through, it is because their records were not known to the SS.

GEN. RUDENKO: You affirm that Himmler was present at the execution of those 50 Soviet officers?

LAMPE: I testify to the fact because I saw him with my own eyes.

GEN. RUDENKO: Can you give us more precise details about the execution of the 4,000 Soviet prisoners of war which you have just mentioned?

LAMPE: I cannot add much to what I have said, except that these men were assassinated on the job probably because the work demanded of them was beyond their strength and they were too underfed to perform these tasks. They were murdered on the spot by blows with a cudgel or struck down by the SS; they were driven by the SS to the wire fence and shot down by the sentinels in the watch towers. I cannot give more details because, as I said, I was not a witness, an eye witness.

GEN. RUDENKO: That is quite clear. And now one more question: Can you give me a more detailed statement concerning the destruction of the Czech colony?

LAMPE: I speak with the same reservation as before. I was not in the camp at the time of the extermination of the 3,000 Czechs; but the survivors with whom I spoke in 1944 were unanimous in confirming the accuracy of these facts, and probably, as far as their own country is concerned, have drawn up a list of the murdered men.

GEN. RUDENKO: This means, if I have understood you correctly, that in the camp where you were interned executions were carried out without trial or inquiry. Every member of the SS had the right to kill an internee. Have I understood your statement correctly?

LAMPE: Yes, that is so. The life of a man at Mauthausen counted for absolutely nothing.

GEN. RUDENKO: I thank you.

THE PRESIDENT: Does any member of the defendants' counsel wish to ask any questions of this witness? . . . Then the witness can retire. Witness, a moment.

THE TRIBUNAL (Mr. Francis Biddle): Do you know how many guards there were at the camp?

LAMPE: The number of the guard varied, but as a general rule there were 1,200 SS and soldiers of the Volkssturm. However, it should be said that only 50 to 60 SS were authorized to come inside the camp.

THE TRIBUNAL (Mr. Biddle): Were they SS men that were authorized to go into the camp?

LAMPE: Yes, they were.

THE TRIBUNAL (Mr. Biddle): All SS men?

LAMPE: All of them were SS.

THE PRESIDENT: The witness can retire.

M. DUBOST: Thank you. With your permission, gentlemen, we shall proceed with the presentation of our case on German atrocities in the western countries of Europe from 1939 to 1945 by retaining from these testimonies the particular facts, which all equally constitute crimes against common law. The general idea, around which we have grouped all our work and our statement, is that of German terror intentionally conceived as an instrument for governing all the enslaved peoples.

We shall remember the testimony brought by this French witness who said that in Vienna, when one wished to frighten a child, one told it about Mauthausen.

The people who were arrested in the western countries were deported to Germany where they were put into camps or into prisons. The information that we have concerning the prisons has been taken from the official report of the Prisoners of War Ministry, which we have already read; it is the bound volume which was in your hands this morning. In it you will find, on Page 35, and Page 36 to Page 42, a detailed statement as to what the prisons were like in Germany. The prison at Cologne is situated between the freight station and the main station and the Chief Prosecutor in Cologne, in a report . . .

THE PRESIDENT: F-274?

M. DUBOST: Yes, Your Honor, F-274, on Page 35. The Document was submitted under Exhibit Number RF-301. The Tribunal will see that the prison at Cologne, where many Frenchmen were interned, was situated between the freight station and the main station so that the Chief Prosecutor in Cologne wrote, in a report which was used by the Ministry of Deportees and Prisoners of War when compiling the book which is before you, that the situation of that prison was so dangerous that no enterprise engaged in war

work would undertake to furnish its precious materials to a factory in this area. The prisoners could not take shelter during the air attacks. They remained locked in their cells, even in case of fire.

The victims of air attacks in the prisons were numerous. The May 1944 raid claimed 200 victims in the prison at Alexander Platz in Berlin. At Aachen the buildings were always dirty, damp, and very small; and the prisoners numbered three or four times as many as the facilities permitted. In the Münster prison the women who were there in November 1943 lived underground without any air. In Frankfurt the prisoners had as cells a sort of iron cage, 2 by 1.5 meters. Hygiene was impossible. At Aachen, as in many other prisons, the prisoners had only one bucket in the middle of the room, and it was forbidden to empty it during the day.

The food ration was extremely small. As a rule, ersatz coffee in the morning with a thin slice of bread; soup at noon; a thin slice of bread at night with a little margarine or sausage or jam.

The prisoners were forced to do extremely heavy work in war industries, in food factories, in spinning mills. No matter what kind of work it was, at least twelve hours of labor were required—at Cologne, in particular, from 7 o'clock in the morning to 9 or 10 o'clock in the evening, that is to say, 14 or 15 consecutive hours. I am still quoting from the file of the Public Prosecutor of Cologne, a document, Number 87, sent to us by the Ministry of Prisoners. A shoe factory gave work to the inmates of 18 German prisons . . . I quote from the same document:

> "Most of the French flatly refused to work in war industries, for example, the manufacture of gas masks, filing of cast iron plates, slides for shells, radio or telephone apparatus intended for the Army. In such cases Berlin gave orders for the recalcitrants to be sent to punishment camps. An example of this was the sending of women from Kottbus to Ravensbrück on 13 November 1944. The Geneva Convention was, of course, not applied.
>
> "The political prisoners frequently had to remove unexploded bombs."

This is the official German text of the Public Prosecutor of Cologne.

There was no medical supervision. There were no prophylactic measures taken in these prisons in case of epidemics, or else the SS doctor intentionally gave the wrong instructions.

At the prison of Dietz-an-der-Lahn, under the eyes of the director, Gammradt, a former medical officer in the German Army, the SS or SA guards struck the prisoners. Dysentery, diphtheria, pulmonary diseases, and pleurisy were not reasons for stopping work;

and those who were dangerously ill were forced to work to the very limit of their strength and were only admitted to the hospital in exceptional cases.

There were many petty persecutions. In Aachen the presence of a Jewish woman prisoner in a cell caused the other prisoners to lose half of their ration. At Amrasch they had to go to toilets only when ordered. At Magdeburg recalcitrants had to make one hundred genuflexions before the guards. Interrogations were carried out in the same manner as in France, that is, the victims were brutally treated and were given practically no food.

At Asperg the doctor had heart injections given to the prisoners so that they died. At Cologne those condemned to death were perpetually kept in chains. At Sonnenburg those who were dying were given a greenish liquor to drink which hastened their death. In Hamburg sick Jews were forced to dig their own graves until, exhausted, they fell into them. We are still speaking of French, Belgians, Dutch, Luxembourgers, Danes, or Norwegians interned in German prisons. These descriptions apply only to citizens of those countries. In the Börse prison in Berlin, Jewish babies were massacred before the eyes of their mothers. The sterilization of men is confirmed by German documents in the file of the Prosecutor of Cologne, which contains a ruling to the effect that the victims cannot be reinstated in their military rights. These files also contain documents which show the role played by children who were in prison. They had to work inside the prison. A German functionary belonging to the prison service inquired as to the decision to be taken with regard to a 4-month-old baby, which was brought to the prison at the same time as its father and mother.

What kind of people were the prison staff? They were "recruited amongst the NSKK (National Socialist Motor Corps) and the SA because of their political views and because they were above suspicion and accustomed to harsh discipline." This is also to be found in the file of the Public Prosecutor at Cologne, Page 39, last paragraph.

At Rheinbach those condemned to death and to be executed in Cologne were beaten to death for breaches of discipline. We can easily imagine the brutality of the men who were in charge of the prisoners. The German official text will furnish us with details regarding the executions. The condemned were guillotined. Nearly all the condemned showed surprise, so say the German documents of which we are giving you a summary, and expressed their dissatisfaction at being guillotined instead of being shot for the patriotic deeds of which they were declared guilty. They thought they deserved to be treated as soldiers.

Among those executed in Cologne were some young people of eighteen and nineteen years of age and one woman. Some French women, who were political prisoners, were taken from the Lübeck prison in order to be executed in Hamburg. They were nearly always charged with the same thing, "helping the enemy." The files are incomplete, but we have those of the chief Prosecutor of Cologne. In every case the offenses committed were of the same nature. Keitel systematically rejected all appeals for mercy which were submitted to him.

Although the lot of those who were held in the prisons was very hard and sometimes terrible, it was infinitely less cruel than the fate of those Frenchmen who had the misfortune to be interned in the concentration camps. The Tribunal is well informed about these camps; my colleagues of the United Nations have presented a long statement on this matter. The Tribunal will remember that it has already been shown a map indicating the exact location of every camp which existed in Germany and in the occupied countries. We shall not, therefore, revert to the geographical distribution of the camps.

With the permission of the Tribunal I should now like to deal with the conditions under which Frenchmen and nationals of the western occupied countries were taken to these camps. Before their departure the victims of arbitrary arrests, such as I described to you this morning, were brought together in prisons or in assembly camps in France.

The main assembly camp in France was at Compiègne. It is from there that most of the deportees left who were to be sent to Germany. There were two other assembly camps, Beaune-La-Rolande and Pithiviers, reserved especially for Jews, and Drancy. The conditions under which people were interned in those camps were somewhat similar to those under which internees in the German prisons lived. With your permission, I shall not dwell any longer on this. The Tribunal will have taken judicial notice of the declarations made by M. Blechmann and Mme. Jacob in Document Number F-457, which I am now lodging as Exhibit Number RF-328. To avoid making these discussions too long and too ponderous with long quotations and testimonies which, after all, are very similar, we shall confine ourselves to reading to the Tribunal a passage from the testimony of Mme. Jacob concerning the conduct of the German Red Cross. This passage is to be found at the bottom of Page 4 of the French document:

"We received a visit from several German personalities, such as Stülpnagel, Du Paty de Clam, Commissioner for Jewish Questions, and Colonel Baron Von Berg, Vice President of the

German Red Cross. This Von Berg was very formal and very pompous. He always wore the small insignia of the Red Cross, which did not prevent his being inhuman and a thief."

And on Page 6, the penultimate paragraph, Colonel Von Berg was, as we have already said earlier, very pompous. I skip two lines.

"In spite of his title of Vice President of the German Red Cross, of which he dared to wear the insignia, he selected at random a number of our comrades for deportation."

Concerning the assembly center of Compiègne, the Tribunal will find in Document F-274, Exhibit Number 301, Pages 14 and 15, some details about the fate of the internees. I do not think it is necessary to read them.

In Norway, Holland, and Belgium there were, as in France, assembly camps. The most typical of these camps, and certainly the best known, is the Breendonck Camp in Belgium, about which it is necessary to give the Tribunal a few details because a great many Belgians were interned there and died of privations, hardships, and tortures of all kinds; or were executed either by shooting or by hanging.

This camp was established in the Fortress of Breendonck in 1940, and we are now extracting from a document which we have already deposited under Document Number F-231 and which is also known under UK-76 (Exhibit Number RF-329), a few details about the conditions prevailing in that camp. It is the fourth document in your document book and is entitled "Report on the Concentration Camp of Breendonck."

THE PRESIDENT: What did you say the name of the camp is?

M. DUBOST: Breendonck, B-r-e-e-n-d-o-n-c-k.

We will ask the Tribunal to be good enough to grant us a few minutes. Our duty is to expose in rather more detail the conditions at this camp, because a considerable number of Belgians were interned there and their internment took a rather special form.

The Germans occupied this fort in August 1940, and they brought the internees there in September. They were Jews. The Belgian Government has not been able to find out how many people were interned from September 1940 to August 1944, when the camp was evacuated and Belgium liberated. Nevertheless, it is thought that about 3,000 to 3,600 internees passed through the camp of Breendonck. About 250 died of privation, 450 were shot, and 12 were hanged.

But we must bear in mind the fact that the majority of the prisoners in Breendonck were transferred at various times to camps

in Germany. Most of these transferred prisoners did not return. There should, therefore, be added to those who died in Breendonck, all those who did not survive their captivity in Germany. Various categories of prisoners were taken into the camp: Jews—for whom the regime was more severe than for the others—Communists and Marxists, of which there were a good many, in spite of the fact that those who interrogated them had nothing definite against them; persons who belonged to the resistance, people who had been denounced to the Germans, hostages—among them M. Bouchery, former minister, and M. Van Kesbeek, who was a liberal deputy, were interned there for ten weeks as a reprisal for the throwing of a grenade on the main square of Malines. These two died after their liberation as a result of the ill-treatment which they endured in that camp.

There were also in that camp some black market operators, and the Belgian Government says of them that "they were not ill-treated, and were even given preferential treatment." That is in Paragraph (e) of Page 2.

The prisoners were compelled to work. The most repugnant collective punishments were inflicted on the slightest pretext. One of these punishments consisted in forcing the internees to crawl under the beds and to stand up at command; this was done to the accompaniment of whipping. You will find that at the top of Page 10.

In the same page is a description of the conditions of the prisoners who were isolated from the others and kept in solitary confinement. They were forced to wear hoods every time they had to leave their cells or when they had to come in contact with other prisoners.

THE PRESIDENT: This is a long report, is it not?

M. DUBOST: That is why I am summarizing it rather than reading it; and I do not think I can make it any shorter, as it was given to me by the Belgian Government, which attaches a great importance to the brutalities, excesses, and atrocities that were committed by the Germans in the Camp of Breendonck and suffered by the whole of the population, especially the Belgian elite.

THE PRESIDENT: Very well, I understand. You are summarizing it?

M. DUBOST: I am now summarizing it, Mr. President. I had reached, in my summary, the description of the life of these prisoners who had been put into cells and who sometimes wore handcuffs and had shackles on their feet attached to an iron ring in the wall. They could not leave their cells without being forced to wear hoods.

One of these prisoners, M. Paquet, states that he spent eight months under such a regime; and when, one day, he tried to lift the hood to see his way, he received a violent blow with the butt of a gun which broke three vertebrae in his neck.

Page 12 concerns the following: discipline, labor, acts of brutality, murders. We are told that the work of the prisoners consisted in removing the earth covering the fort and carrying it outside the moat. This work was done by hand. It was very laborious and dangerous and caused the loss of a great many human lives. Small trucks were used. The trucks were hurled along the rails by the SS and often broke the legs of the prisoners who were not warned of their approach. The SS made a game of this, and at the slightest stoppage of work they would rush at the internees and beat them.

On the same page we are told that frequently, for no reason at all, the prisoners were thrown into the moat surrounding the fort. According to the report of the Belgian Government, dozens of prisoners were drowned. Some prisoners were killed after they had been buried up to their necks, and the SS finished them off by kicking them or beating them with a stick. Food, clothing, correspondence, and medical care—all this information is given in this report as in all the other similar reports which I have already read to you.

The conclusion is important and should be read in part—second paragraph:

> "The former internees of Breendonck, many of whom have had experience of the concentration camps in Germany—Buchenwald, Neuengamme, Oranienburg—state that, generally speaking, the conditions prevailing at Breendonck in regard to discipline and food were worse. They add that in the camps in Germany, which were more crowded, they felt less under the domination of their guards and had the feeling that their lives were less in danger."

The figures given in this report are only minimum figures. To give but one example (last paragraph of the last page), M. Verheirstraeten declares that he put 120 people in their coffins during the two months of December 1942 and January 1943. If one bears in mind the executions of the 6th and 13th of January, each of which accounted for the lives of 20 persons, we see that at that time, that is to say, over a period of two months, 80 persons died of disease or ill-treatment. From these camps the internees were transported to Germany in convoys, and a description of these should be given to the Tribunal.

The Tribunal should know, first of all, that from France alone, excluding the three Departments of the Haut-Rhin, Bas-Rhin, and

Moselle, 326 convoys left between 1 January 1944 and 25 August of the same year, that is to say, an average of ten convoys a week. Now each convoy transported from 1,000 to 2,000 persons; and we know now, from what our witness said just now, that each truck carried from 60 to 120 individuals. It appears that there left from France, excluding the above-mentioned three northern departments, 3 convoys in 1940, 19 convoys in 1941, 104 convoys in 1942, and 257 convoys in 1943. These are the figures given in the documents submitted under Number F-274, Exhibit Number RF-301, Page 14. These convoys nearly always left from the Compiègne Camp where more than 50,000 internees were registered and from there 78 convoys left in 1943 and 95 convoys in 1944.

The purpose of these deportations was to terrorize the populations. The Tribunal will remember the text already read; how the families, not knowing what became of the internees, were seized with terror and advantage was taken of this to round-up more workers to help German labor which had become depleted owing to the war with Russia.

The manner in which these deportations were carried out not only made it possible more or less to select this labor; but it constituted the first stage of a new aspect of German policy, that is, purely and simply the extermination of all racial or intellectual categories whose political activity appeared as a menace to the Nazi leaders.

These deportees, who were locked up 80 or 120 in each truck, in any season, could neither sit nor crouch and were given nothing whatsoever to eat or drink during their journey. In this connection we would particularly like to bring Dr. Steinberg's testimony taken by Lieutenant Colonel Badin of the Office for Inquiry into War Crimes in Paris, Document Number F-392, which we submit as Exhibit Number RF-330, which is the 12th in your document book. We will read only a few paragraphs on Page 2:

> "We were crowded into cattle trucks, about 70 in each. Sanitary conditions were frightful. Our journey lasted two days. We reached Auschwitz on 24 June 1942. It should be noted that we had been given no food at all when we left and that we had to live during those two days on what little food we had taken with us from Drancy."

The deportees were at times refused water by the German Red Cross. Evidence was taken by the Ministry of Prisoners and Deportees, and this appears in Document RF-301, Page 18. It is about a convoy of Jewish women which left Bobigny station on 19 June 1942:

"They travelled for three days and three nights, dying of thirst. At Breslau they begged the nurses of the German Red Cross to give them a little water, but in vain."

Moreover, Lieutenant Geneste and Dr. Bloch have testified to the same facts and other different facts; and in Document Number F-321, Exhibit Number RF-331, entitled "Concentration Camps," which we have been able to submit to you in French, Russian, and German, the English version having been exhausted, on Page 21, you will find, "In the station of Bremen water was refused to us by the German Red Cross, who said that there was no water." This is the testimony by Lieutenant Geneste of O.R.C.G. Concerning this conduct of the German Red Cross and to finish dealing with the subject, there is one more word to be said. Document RF-331 gives you, on Page 162, the proof that that was an ambulance car bearing a red cross which carried gas in iron containers destined for the gas chambers of Auschwitz Camp.

THE PRESIDENT: The Tribunal will adjourn now until Monday.

[The Tribunal adjourned until 28 January 1946 at 1000 hours.]

FORTY-FOURTH DAY

Monday, 28 January 1946

Morning Session

M. DUBOST: With the authorization of the Court, I should like to proceed with this part of the presentation of the French case by hearing a witness who, for more than 3 years, lived in German concentration camps.

[The witness, Mme. Vaillant-Couturier, took the stand.]

THE PRESIDENT: Would you stand up, please? Do you wish to swear the French oath? Will you tell me your name?

MADAME MARIE CLAUDE VAILLANT-COUTURIER (Witness): Claude Vaillant-Couturier.

THE PRESIDENT: Will you repeat this oath after me: I swear that I will speak without hate or fear, that I will tell the truth, all the truth, nothing but the truth.

[The witness repeated the oath in French.]

THE PRESIDENT: Raise your right hand and say, "I swear."

MME. VAILLANT-COUTURIER: I swear.

THE PRESIDENT: Please, will you sit down and speak slowly. Your name is?

MME. VAILLANT-COUTURIER: Vaillant-Couturier, Marie, Claude, Vogel.

M. DUBOST: Is your name Madame Vaillant-Couturier?

MME. VAILLANT-COUTURIER: Yes.

M. DUBOST: You are the widow of M. Vaillant-Couturier?

MME. VAILLANT-COUTURIER: Yes.

M. DUBOST: You were born in Paris on 3 November 1912?

MME. VAILLANT-COUTURIER: Yes.

M. DUBOST: And you are of French nationality, French born, and of parents who were of French nationality?

MME. VAILLANT-COUTURIER: Yes.

M. DUBOST: You are a deputy in the Constituent Assembly?

MME. VAILLANT-COUTURIER: Yes.

M. DUBOST: You are a Knight of the Legion of Honor?

MME. VAILLANT-COUTURIER: Yes.

M. DUBOST: You have just been decorated by General Legentilhomme at the Invalides?

MME. VAILLANT-COUTURIER: Yes.

M. DUBOST: Were you arrested and deported? Will you please give your testimony?

MME. VAILLANT-COUTURIER: I was arrested on 9 February 1942 by Petain's French police, who handed me over to the German authorities after 6 weeks. I arrived on 20 March at Santé prison in the German quarter. I was questioned on 9 June 1942. At the end of my interrogation they wanted me to sign a statement which was not consistent with what I had said. I refused to sign it. The officer who had questioned me threatened me; and when I told him that I was not afraid of death nor of being shot, he said, "But we have at our disposal means for killing that are far worse than merely shooting." And the interpreter said to me, "You do not know what you have just done. You are going to leave for a concentration camp in Germany. One never comes back from there."

M. DUBOST: You were then taken to prison?

MME. VAILLANT-COUTURIER: I was taken back to the Santé prison where I was placed in solitary confinement. However, I was able to communicate with my neighbors through the piping and the windows. I was in a cell next to that of Georges Politzer, the philosopher, and Jacques Solomon, physicist. Mr. Solomon is the son-in-law of Professor Langevin, a pupil of Curie, one of the first to study atomic disintegration.

Georges Politzer told me through the piping that during his interrogation, after having been tortured, he was asked whether he would write theoretical pamphlets for National Socialism. When he refused, he was told that he would be in the first train of hostages to be shot.

As for Jacques Solomon, he also was horribly tortured and then thrown into a dark cell and came out only on the day of his execution to say goodbye to his wife, who also was under arrest at the Santé. Hélène Solomon Langevin told me in Romainville, where I found her when I left the Santé, that when she went to her husband he moaned and said, "I cannot take you in my arms, because I can no longer move them."

Every time that the internees came back from their questioning one could hear moaning through the windows, and they all said that they could not make any movements.

Several times during the 5 months I spent at the Santé hostages were taken to be shot. When I left the Santé on 20 August 1942,

I was taken to the Fortress of Romainville, which was a camp for hostages. There I was present on two occasions when they took hostages, on 21 August and 22 September. Among the hostages who were taken away were the husbands of the women who were with me and who left for Auschwitz. Most of them died there. These women, for the most part, had been arrested only because of the activity of their husbands. They themselves had done nothing.

M. DUBOST: When did you leave for Auschwitz?

MME. VAILLANT-COUTURIER: I left for Auschwitz on 23 January 1943, and arrived there on the 27th.

M. DUBOST: Were you with a convoy?

MME. VAILLANT-COUTURIER: I was with a convoy of 230 French women; among us were Danielle Casanova who died in Auschwitz, Maï Politzer who died in Auschwitz, and Hélène Solomon. There were some elderly women...

M. DUBOST: What was their social position?

MME. VAILLANT-COUTURIER: They were intellectuals, school teachers; they came from all walks of life. Maï Politzer was a doctor, and the wife of the philosopher Georges Politzer. Hélène Solomon is the wife of the physicist Solomon; she is the daughter of Professor Langevin. Danielle Casanova was a dental surgeon and she was very active among the women. It is she who organized a resistance movement among the wives of prisoners.

M. DUBOST: How many of you came back out of 230?

MME. VAILLANT-COUTURIER: Forty-nine. In the convoy there were some elderly women. I remember one who was 67 and had been arrested because she had in her kitchen the shotgun of her husband, which she kept as a souvenir and had not declared because she did not want it to be taken from her. She died after a fortnight at Auschwitz.

THE PRESIDENT: When you said only 49 came back, did you mean only 49 arrived at Auschwitz.

MME. VAILLANT-COUTURIER: No, only 49 came back to France.

There were also cripples, among them a singer who had only one leg. She was taken out and gassed at Auschwitz. There was also a young girl of 16, a college girl, Claudine Guérin; she also died at Auschwitz. There were also two women who had been acquitted by the German military tribunal, Marie Alonzo and Marie-Thérèse Fleuri; they died at Auschwitz.

It was a terrible journey. We were 60 in a car and we were given no food or drink during the journey. At the various stopping

places we asked the Lorraine soldiers of the Wehrmacht who were guarding us whether we would arrive soon; and they replied, "If you knew where you are going you would not be in a hurry to get there."

We arrived at Auschwitz at dawn. The seals on our cars were broken, and we were driven out by blows with the butt end of a rifle, and taken to the Birkenau Camp, a section of the Auschwitz Camp. It is situated in the middle of a great plain, which was frozen in the month of January. During this part of the journey we had to drag our luggage. As we passed through the door we knew only too well how slender our chances were that we would come out again, for we had already met columns of living skeletons going to work; and as we entered we sang "The Marseillaise" to keep up our courage.

We were led to a large shed, then to the disinfecting station. There our heads were shaved and our registration numbers were tattooed on the left forearm. Then we were taken into a large room for a steam bath and a cold shower. In spite of the fact that we were naked, all this took place in the presence of SS men and women. We were then given clothing which was soiled and torn, a cotton dress and jacket of the same material.

As all this had taken several hours, we saw from the windows of the block where we were, the camp of the men; and toward the evening an orchestra came in. It was snowing and we wondered why they were playing music. We then saw that the camp foremen were returning to the camp. Each foreman was followed by men who were carrying the dead. As they could hardly drag themselves along, every time they stumbled they were put on their feet again by being kicked or by blows with the butt end of a rifle.

After that we were taken to the block where we were to live. There were no beds but only bunks, measuring 2 by 2 meters, and there nine of us had to sleep the first night without any mattress or blanket. We remained in blocks of this kind for several months. We could not sleep all night, because every time one of the nine moved—this happened unceasingly because we were all ill—she disturbed the whole row.

At 3:30 in the morning the shouting of the guards woke us up, and with cudgel blows we were driven from our bunks to go to roll call. Nothing in the world could release us from going to the roll call; even those who were dying had to be dragged there. We had to stand there in rows of five until dawn, that is, 7 or 8 o'clock in the morning in winter; and when there was a fog, sometimes until noon. Then the commandos would start on their way to work.

M. DUBOST: Excuse me, can you describe the roll call?

MME. VAILLANT-COUTURIER: For roll call we were lined up in rows of five; and we waited until daybreak, until the Aufseherinnen, the German women guards in uniform, came to count us. They had cudgels and they beat us more or less at random.

We had a comrade, Germaine Renaud, a school teacher from Azay-le-Rideau in France, who had her skull broken before my eyes from a blow with a cudgel during the roll call.

The work at Auschwitz consisted of clearing demolished houses, road building, and especially the draining of marsh land. This was by far the hardest work, for all day long we had our feet in the water and there was the danger of being sucked down. It frequently happened that we had to pull out a comrade who had sunk in up to the waist.

During the work the SS men and women who stood guard over us would beat us with cudgels and set their dogs on us. Many of our friends had their legs torn by the dogs. I even saw a woman torn to pieces and die under my very eyes when Tauber, a member of the SS, encouraged his dog to attack her and grinned at the sight.

The causes of death were extremely numerous. First of all, there was the complete lack of washing facilities. When we arrived at Auschwitz, for 12,000 internees there was only one tap of water, unfit for drinking, and it was not always flowing. As this tap was in the German wash house we could reach it only by passing through the guards, who were German common-law women prisoners, and they beat us horribly as we went by. It was therefore almost impossible to wash ourselves or our clothes. For more than 3 months we remained without changing our clothes. When there was snow, we melted some to wash in. Later, in the spring, when we went to work we would drink from a puddle by the road-side and then wash our underclothes in it. We took turns washing our hands in this dirty water. Our companions were dying of thirst, because we got only half a cup of some herbal tea twice a day.

M. DUBOST: Please describe in detail one of the roll calls at the beginning of February.

MME. VAILLANT-COUTURIER: On 5 February there was what is called a general roll call.

M. DUBOST: In what year was that?

MME. VAILLANT-COUTURIER: In 1943. At 3:30 the whole camp . . .

M. DUBOST: In the morning at 3:30?

MME. VAILLANT-COUTURIER: In the morning at 3:30 the whole camp was awakened and sent out on the plain, whereas normally the roll call was at 3:30 but inside the camp. We remained

out in front of the camp until 5 in the afternoon, in the snow, without any food. Then when the signal was given we had to go through the door one by one, and we were struck in the back with a cudgel, each one of us, in order to make us run. Those who could not run, either because they were too old or too ill were caught by a hook and taken to Block 25, "waiting block" for the gas chamber. On that day 10 of the French women of our convoy were thus caught and taken to Block 25.

When all the internees were back in the camp, a party to which I belonged was organized to go and pick up the bodies of the dead which were scattered over the plain as on a battlefield. We carried to the yard of Block 25 the dead and the dying without distinction, and they remained there stacked up in a pile.

This Block 25, which was the anteroom of the gas chamber, if one may express it so, is well known to me because at that time we had been transferred to Block 26 and our windows opened on the yard of Number 25. One saw stacks of corpses piled up in the courtyard, and from time to time a hand or a head would stir among the bodies, trying to free itself. It was a dying woman attempting to get free and live. The rate of mortality in that block was even more terrible than elsewhere because, having been condemned to death, they received food or drink only if there was something left in the cans in the kitchen; which means that very often they went for several days without a drop of water.

One of our companions, Annette Épaux, a fine young woman of 30, passing the block one day, was overcome with pity for those women who moaned from morning till night in all languages, "Drink. Drink. Water!" She came back to our block to get a little herbal tea, but as she was passing it through the bars of the window she was seen by the Aufseherin, who took her by the neck and threw her into Block 25. All my life I will remember Annette Épaux. Two days later I saw her on the truck which was taking the internees to the gas chamber. She had her arms around another French woman, old Line Porcher, and when the truck started moving she cried, "Think of my little boy, if you ever get back to France." Then they started singing "The Marseillaise."

In Block 25, in the courtyard, there were rats as big as cats running about and gnawing the corpses and even attacking the dying who had not enough strength left to chase them away.

Another cause of mortality and epidemics was the fact that we were given food in large red mess tins, which were merely rinsed in cold water after each meal. As all the women were ill and had not the strength during the night to go to the trench which was used as a lavatory, the access to which was beyond description, they used these containers for a purpose for which they were not meant.

The next day the mess tins were collected and taken to a refuse heap. During the day another team would come and collect them, wash them in cold water, and put them in use again.

Another cause of death was the problem of shoes. In the snow and mud of Poland leather shoes were completely destroyed at the end of a week or two. Therefore our feet were frozen and covered with sores. We had to sleep with our muddy shoes on, lest they be stolen, and when the time came to get up for roll call cries of anguish could be heard: "My shoes have been stolen." Then one had to wait until the whole block had been emptied to look under the bunks for odd shoes. Sometimes one found two shoes for the same foot, or one shoe and one sabot. One could go to roll call like that but it was an additional torture for work, because sores formed on our feet which quickly became infected for lack of care. Many of our companions went to the Revier for sores on their feet and legs and never came back.

M. DUBOST: What did they do to the internees who came to roll call without shoes?

MME. VAILLANT-COUTURIER: The Jewish internees who came without shoes were immediately taken to Block 25.

M. DUBOST: They were gassed then?

MME. VAILLANT-COUTURIER: They were gassed for any reason whatsoever. Their conditions were moreover absolutely appalling. Although we were crowded 800 in a block and could scarcely move, they were 1,500 to a block of similar dimensions, so that many of them could not sleep or even lie down during the whole night.

M. DUBOST: Can you talk about the Revier?

MME. VAILLANT-COUTURIER: To reach the Revier one had to go first to the roll call. Whatever the state was . . .

M. DUBOST: Would you please explain what the Revier was in the camp?

MME. VAILLANT-COUTURIER: The Revier was the blocks where the sick were put. This place could not be given the name of hospital, because it did not correspond in any way to our idea of a hospital.

To go there one had first to obtain authorization from the block chief who seldom gave it. When it was finally granted we were led in columns to the infirmary where, no matter what weather, whether it snowed or rained, even if one had a temperature of 40^0 (centigrade) one had to wait for several hours standing in a queue to be admitted. It frequently happened that patients died outside

before the door of the infirmary, before they could get in. Moreover, lining up in front of the infirmary was dangerous because if the queue was too long the SS came along, picked up all the women who were waiting, and took them straight to Block Number 25.

M. DUBOST: That is to say, to the gas chamber?

MME. VAILLANT-COUTURIER: That is to say to the gas chamber. That is why very often the women preferred not to go to the Revier and they died at their work or at roll call. Every day, after the evening roll call in winter time, dead were picked up who had fallen into the ditches.

The only advantage of the Revier was that as one was in bed, one did not have to go to roll call; but one lay in appalling conditions, four in a bed of less than 1 meter in width, each suffering from a different disease, so that anyone who came for leg sores would catch typhus or dysentery from neighbors. The straw mattresses were dirty and they were changed only when absolutely rotten. The bedding was so full of lice that one could see them swarming like ants. One of my companions, Marguerite Corringer, told me that when she had typhus, she could not sleep all night because of the lice. She spent the night shaking her blanket over a piece of paper and emptying the lice into a receptacle by the bed, and this went on for hours.

There were practically no medicines. Consequently the patients were left in their beds without any attention, without hygiene, and unwashed. The dead lay in bed with the sick for several hours; and finally, when they were noticed, they were simply tipped out of the bed and taken outside the block. There the women porters would come and carry the dead away on small stretchers, with heads and legs dangling over the sides. From morning till night the carriers of the dead went from the Revier to the mortuary.

During the big epidemics, in the winters of 1943 and 1944, the stretchers were replaced by carts, as there were too many dead bodies. During those periods of epidemics there were from 200 to 350 dead daily.

M. DUBOST: How many people died at that time?

MME. VAILLANT-COUTURIER: During the big epidemics of typhus in the winters of 1943 and 1944, from 200 to 350; it depended on the days.

M. DUBOST: Was the Revier open to all the internees?

MME. VAILLANT-COUTURIER: No. When we arrived Jewish women had not the right to be admitted. They were taken straight to the gas chamber.

M. DUBOST: Would you please tell us about the disinfection of the blocks?

MME. VAILLANT-COUTURIER: From time to time, owing to the filth which caused the lice and gave rise to so many epidemics, they disinfected the blocks with gas; but these disinfections were also the cause of many deaths because, while the blocks were being disinfected with gas, the prisoners were taken to the shower-baths. Their clothes were taken away from them to be steamed. The internees were left naked outside, waiting for their clothing to come back from the steaming, and then they were given back to them all wet. Even those who were sick, who could barely stand on their feet, were sent to the showers. It is quite obvious that a great many of them died in the course of these proceedings. Those who could not move were washed all in the same bath during the disinfection.

M. DUBOST: How were you fed?

MME. VAILLANT-COUTURIER: We had 200 grams of bread, three-quarters or half a liter—it varied—of soup made from swedes, and a few grams of margarine or a slice of sausage in the evening, this daily.

M. DUBOST: Regardless of the work that was exacted from the internees?

MME. VAILLANT-COUTURIER: Regardless of the work that was exacted from the internee. Some who had to work in the factory of the "Union," an ammunition factory where they made grenades and shells, received what was called a "Zulage," that is, a supplementary ration, when the amount of their production was satisfactory. Those internees had to go to roll call morning and night as we did, and they were at work 12 hours in the factory. They came back to the camp after the day's work, making the journey both ways on foot.

M. DUBOST: What was this "Union" factory?

MME. VAILLANT-COUTURIER: It was an ammunition factory. I do not know to what company it belonged. It was called the "Union."

M. DUBOST: Was it the only factory?

MME. VAILLANT-COUTURIER: No, there was also a large Buna factory, but as I did not work there I do not know what was made there. The internees who were taken to the Buna plant never came back to our camp.

M. DUBOST: Will you tell us about experiments, if you witnessed any?

MME. VAILLANT-COUTURIER: As to the experiments, I have seen in the Revier, because I was employed at the Revier, the queue of young Jewesses from Salonika who stood waiting in front of the

X-ray room for sterilization. I also know that they performed castration operations in the men's camp. Concerning the experiments performed on women I am well informed, because my friend, Doctor Hadé Hautval of Montbéliard, who has returned to France, worked for several months in that block nursing the patients; but she always refused to participate in those experiments. They sterilized women either by injections or by operation or with rays. I saw and knew several women who had been sterilized. There was a very high mortality rate among those operated upon. Fourteen Jewesses from France who refused to be sterilized were sent to a Strafarbeit kommando, that is, hard labor.

M. DUBOST: Did they come back from those kommandos?

MME. VAILLANT-COUTURIER: Very seldom. Quite exceptionally.

M. DUBOST: What was the aim of the SS?

MME. VAILLANT-COUTURIER: Sterilization—they did not conceal it. They said that they were trying to find the best method for sterilizing so as to replace the native population in the occupied countries by Germans after one generation, once they had made use of the inhabitants as slaves to work for them.

M. DUBOST: In the Revier did you see any pregnant women?

MME. VAILLANT-COUTURIER: Yes. The Jewish women, when they arrived in the first months of pregnancy, were subjected to abortion. When their pregnancy was near the end, after confinement, the babies were drowned in a bucket of water. I know that because I worked in the Revier and the woman who was in charge of that task was a German midwife, who was imprisoned for having performed illegal operations. After a while another doctor arrived and for 2 months they did not kill the Jewish babies. But one day an order came from Berlin saying that again they had to be done away with. Then the mothers and their babies were called to the infirmary. They were put in a lorry and taken away to the gas chamber.

M. DUBOST: Why did you say that an order came from Berlin?

MME. VAILLANT-COUTURIER: Because I knew the internees who worked in the secretariat of the SS and in particular a Slovakian woman by the name of Hertha Roth, who is now working with UNRRA at Bratislava.

M. DUBOST: Is it she who told you that?

MME. VAILLANT-COUTURIER: Yes, and moreover, I also knew the men who worked in the gas kommando.

M. DUBOST: You have told us about the Jewish mothers. Were there other mothers in your camp?

MME. VAILLANT-COUTURIER: Yes, in principle, non-Jewish women were allowed to have their babies, and the babies were not taken away from them; but conditions in the camp being so horrible, the babies rarely lived for more than 4 or 5 weeks.

There was one block where the Polish and Russian mothers were. One day the Russian mothers, having been accused of making too much noise, had to stand for roll call all day long in front of the block, naked, with their babies in their arms.

M. DUBOST: What was the disciplinary system of the camp? Who kept order and discipline? What were the punishments?

MME. VAILLANT-COUTURIER: Generally speaking, the SS economized on many of their own personnel by employing internees for watching the camp; SS only supervised. These internees were chosen from German common-law criminals and prostitutes, and sometimes those of other nationalities, but most of them were Germans. By corruption, accusation, and terror they succeeded in making veritable human beasts of them; and the internees had as much cause to complain about them as about the SS themselves. They beat us just as hard as the SS; and as to the SS, the men behaved like the women and the women were as savage as the men. There was no difference.

The system employed by the SS of degrading human beings to the utmost by terrorizing them and causing them through fear to commit acts which made them ashamed of themselves, resulted in their being no longer human. This was what they wanted. It took a great deal of courage to resist this atmosphere of terror and corruption.

M. DUBOST: Who meted out punishments?

MME. VAILLANT-COUTURIER: The SS leaders, men and women.

M. DUBOST: What was the nature of the punishments?

MME. VAILLANT-COUTURIER: Bodily ill-treatment in particular. One of the most usual punishments was 50 blows with a stick on the loins. They were administered with a machine which I saw, a swinging apparatus manipulated by an SS. There were also endless roll calls day and night, or gymnastics; flat on the belly, get up, lie down, up, down, for hours, and anyone who fell was beaten unmercifully and taken to Block 25.

M. DUBOST: How did the SS behave towards the women? And the women SS?

MME. VAILLANT-COUTURIER: At Auschwitz there was a brothel for the SS and also one for the male internees of the staff, who were called "Kapo." Moreover, when the SS needed servants,

they came accompanied by the Oberaufseherin, that is, the woman commandant of the camp, to make a choice during the process of disinfection. They would point to a young girl, whom the Oberaufseherin would take out of the ranks. They would look her over and make jokes about her physique; and if she was pretty and they liked her, they would hire her as a maid with the consent of the Oberaufseherin, who would tell her that she was to obey them absolutely no matter what they asked of her.

M. DUBOST: Why did they go during disinfection?

MME. VAILLANT-COUTURIER: Because during the disinfection the women were naked.

M. DUBOST: This system of demoralization and corruption—was it exceptional?

MME. VAILLANT-COUTURIER: No, the system was identical in all the camps where I have been, and I have spoken to internees coming from camps where I myself had never been; it was the same thing everywhere. The system was identical no matter what the camp was. There were, however, certain variations. I believe that Auschwitz was one of the harshest; but later I went to Ravensbrück, where there also was a house of ill fame and where recruiting was also carried out among the internees.

M. DUBOST: Then, according to you, everything was done to degrade those women in their own sight?

MME. VAILLANT-COUTURIER: Yes.

M. DUBOST: What do you know about the convoy of Jews which arrived from Romainville about the same time as yourself?

MME. VAILLANT-COUTURIER: When we left Romainville the Jewesses who were there at the same time as ourselves were left behind. They were sent to Drancy and subsequently arrived at Auschwitz, where we found them again 3 weeks later, 3 weeks after our arrival. Of the original 1,200 only 125 actually came to the camp; the others were immediately sent to the gas chambers. Of these 125 not one was left alive at the end of 1 month.

The transports operated as follows:

When we first arrived, whenever a convoy of Jews came, a selection was made; first the old men and women, then the mothers and the children were put into trucks together with the sick or those whose constitution appeared to be delicate. They took in only the young women and girls as well as the young men who were sent to the men's camp.

Generally speaking, of a convoy of about 1,000 to 1,500, seldom more than 250—and this figure really was the maximum—actually

reached the camp. The rest were immediately sent to the gas chamber.

At this selection also, they picked out women in good health between the ages of 20 and 30, who were sent to the experimental block; and young girls and slightly older women, or those who had not been selected for that purpose, were sent to the camp where, like ourselves, they were tattooed and shaved.

There was also, in the spring of 1944, a special block for twins. It was during the time when large convoys of Hungarian Jews—about 700,000—arrived. Dr. Mengele, who was carrying out the experiments, kept back from each convoy twin children and twins in general, regardless of their age, so long as both were present. So we had both babies and adults on the floor at that block. Apart from blood tests and measuring I do not know what was done to them.

M. DUBOST: Were you an eye witness of the selections on the arrival of the convoys?

MME. VAILLANT-COUTURIER: Yes, because when we worked at the sewing block in 1944, the block where we lived directly faced the stopping place of the trains. The system had been improved. Instead of making the selection at the place where they arrived, a side line now took the train practically right up to the gas chamber; and the stopping place, about 100 meters from the gas chamber, was right opposite our block though, of course, separated from us by two rows of barbed wire. Consequently, we saw the unsealing of the cars and the soldiers letting men, women, and children out of them. We then witnessed heart-rending scenes; old couples forced to part from each other, mothers made to abandon their young daughters, since the latter were sent to the camp, whereas mothers and children were sent to the gas chambers. All these people were unaware of the fate awaiting them. They were merely upset at being separated, but they did not know that they were going to their death. To render their welcome more pleasant at this time—June-July 1944—an orchestra composed of internees, all young and pretty girls dressed in little white blouses and navy blue skirts, played during the selection, at the arrival of the trains, gay tunes such as "The Merry Widow," the "Barcarolle" from "The Tales of Hoffman," and so forth. They were then informed that this was a labor camp and since they were not brought into the camp they saw only the small platform surrounded by flowering plants. Naturally, they could not realize what was in store for them. Those selected for the gas chamber, that is, the old people, mothers, and children, were escorted to a red-brick building.

M. DUBOST: These were not given an identification number?

MME. VAILLANT-COUTURIER: No.

M. DUBOST: They were not tattooed?

MME. VAILLANT-COUTURIER: No. They were not even counted.

M. DUBOST: You were tattooed?

MME. VAILLANT-COUTURIER: Yes, look. *[The witness showed her arm.]* They were taken to a red brick building, which bore the letters "Baden," that is to say "Baths." There, to begin with, they were made to undress and given a towel before they went into the so-called shower room. Later on, at the time of the large convoys from Hungary, they had no more time left to play-act or to pretend; they were brutally undressed, and I know these details as I knew a little Jewess from France who lived with her family at the "Republique" district.

M. DUBOST: In Paris?

MME. VAILLANT-COUTURIER: In Paris. She was called "little Marie" and she was the only one, the sole survivor of a family of nine. Her mother and her seven brothers and sisters had been gassed on arrival. When I met her she was employed to undress the babies before they were taken into the gas chamber. Once the people were undressed they took them into a room which was somewhat like a shower room, and gas capsules were thrown through an opening in the ceiling. An SS man would watch the effect produced through a porthole. At the end of 5 or 7 minutes, when the gas had completed its work, he gave the signal to open the doors; and men with gas masks—they too were internees—went into the room and removed the corpses. They told us that the internees must have suffered before dying, because they were closely clinging to one another and it was very difficult to separate them.

After that a special squad would come to pull out gold teeth and dentures; and again, when the bodies had been reduced to ashes, they would sift them in an attempt to recover the gold.

At Auschwitz there were eight crematories but, as from 1944, these proved insufficient. The SS had large pits dug by the internees, where they put branches, sprinkled with gasoline, which they set on fire. Then they threw the corpses into the pits. From our block we could see after about three-quarters of an hour or an hour after the arrival of a convoy, large flames coming from the crematory, and the sky was lighted up by the burning pits.

One night we were awakened by terrifying cries. And we discovered, on the following day, from the men working in the Sonderkommando—the "Gas Kommando"—that on the preceding day, the gas supply having run out, they had thrown the children into the furnaces alive.

M. DUBOST: Can you tell us about the selections that were made at the beginning of winter?

MME. VAILLANT-COUTURIER: Every year, towards the end of the autumn, they proceeded to make selections on a large scale in the Revier. The system appeared to work as follows—I say this because I noticed the fact for myself during the time I spent in Auschwitz. Others, who had stayed there even longer than I, had observed the same phenomenon.

In the spring, all through Europe, they rounded up men and women whom they sent to Auschwitz. They kept only those who were strong enough to work all through the summer. During that period naturally some died every day; but the strongest, those who had succeeded in holding out for 6 months, were so exhausted that they too had to go to the Revier. It was then in autumn that the large scale selections were made, so as not to feed too many useless mouths during the winter. All the women who were too thin were sent to the gas chamber, as well as those who had long, drawn-out illnesses; but the Jewesses were gassed for practically no reason at all. For instance, they gassed everybody in the "scabies block," whereas everybody knows that with a little care, scabies can be cured in 3 days. I remember the typhus convalescent block from which 450 out of 500 patients were sent to the gas chamber.

During Christmas 1944—no, 1943, Christmas 1943—when we were in quarantine, we saw, since we lived opposite Block 25, women brought to Block 25 stripped naked. Uncovered trucks were then driven up and on them the naked women were piled, as many as the trucks could hold. Each time a truck started, the infamous Hessler—he was one of the criminals condemned to death at the Lüneburg trials—ran after the truck and with his bludgeon repeatedly struck the naked women going to their death. They knew they were going to the gas chamber and tried to escape. They were massacred. They attempted to jump from the truck and we, from our own block, watched the trucks pass by and heard the grievous wailing of all those women who knew they were going to be gassed. Many of them could very well have lived on, since they were suffering only from scabies and were, perhaps, a little too undernourished.

M. DUBOST: You told us, Madame, a little while ago, that the deportees, from the moment they stepped off the train and without even being counted, were sent to the gas chamber. What happened to their clothing and their luggage?

MME. VAILLANT-COUTURIER: The non-Jews had to carry their own luggage and were billeted in separate blocks, but when the Jews arrived they had to leave all their belongings on the platform. They were stripped before entering the gas chamber and all their

clothes, as well as all their belongings, were taken over to large barracks and there sorted out by a Kommando named "Canada." Then everything was shipped to Germany: jewelry, fur coats, *et cetera.*

Since the Jewesses were sent to Auschwitz with their entire families and since they had been told that this was a sort of ghetto and were advised to bring all their goods and chattels along, they consequently brought considerable riches with them. As for the Jewesses from Salonika, I remember that on their arrival they were given picture postcards, bearing the post office address of "Waldsee," a place which did not exist; and a printed text to be sent to their families, stating, "We are doing very well here; we have work and we are well treated. We await your arrival." I myself saw the cards in question; and the Schreiberinnen, that is, the secretaries of the block, were instructed to distribute them among the internees in order to post them to their families. I know that whole families arrived as a result of these postcards.

I myself know that the following affair occurred in Greece. I do not know whether it happened in any other country, but in any case it did occur in Greece (as well as in Czechoslovakia) that whole families went to the recruiting office at Salonika in order to rejoin their families. I remember one professor of literature from Salonika, who, to his horror, saw his own father arrive.

M. DUBOST: Will you tell us about the Gypsy camps?

MME. VAILLANT-COUTURIER: Right next to our camp, on the other side of the barbed wires, 3 meters apart, there were two camps; one for Gypsies, which towards August 1944 was completely gassed. These Gypsies came from all parts of Europe including Germany. Likewise on the other side there was the so-called family camp. These were Jews from the Ghetto of Theresienstadt, who had been brought there and, unlike ourselves, they had been neither tattooed nor shaved. Their clothes were not taken from them and they did not have to work. They lived like this for 6 months and at the end of 6 months the entire family camp, amounting to some 6,000 or 7,000 Jews, was gassed. A few days later other large convoys again arrived from Theresienstadt with their families and 6 months later they too were gassed, like the first inmates of the family camp.

M. DUBOST: Would you, Madame, please give us some details as to what you saw when you were about to leave the camp, and under what circumstances you left it?

MME. VAILLANT-COUTURIER: We were in quarantine before leaving Auschwitz.

M. DUBOST: When was that?

MME. VAILLANT-COUTURIER: We were in quarantine for 10 months, from the 15th of July 1943, yes, until May 1944. And after that we returned to the camp for 2 months. Then we went to Ravensbrück.

M. DUBOST: These were all Frenchwomen from your convoy, who had survived?

MME. VAILLANT-COUTURIER: Yes, all the surviving Frenchwomen of our convoy. We had heard from Jewesses who had arrived from France, in July 1944, that an intensive campaign had been carried out by the British Broadcasting Corporation in London, in connection with our convoy, mentioning Maï Politzer, Danielle Casanova, Hélène Solomon-Langevin, and myself. As a result of this broadcast we knew that orders had been issued from Berlin to the effect that Frenchwomen should be transported under better conditions.

So we were placed in quarantine. This was a block situated opposite the camp and outside the barbed wire. I must say that it is to this quarantine that the 49 survivors owed their lives, because at the end of 4 months there were only 52 of us. Therefore it is certain that we could not have survived 18 months of this regime had we not had these 10 months of quarantine.

This quarantine was imposed because exanthematic typhus was raging at Auschwitz. One could leave the camp only to be freed or to be transferred to another camp or to be summoned before the court after spending 15 days in quarantine, these 15 days being the incubation period for exanthematic typhus. Consequently, as soon as the papers arrived announcing that the internee would probably be liberated, she was placed in quarantine until the order for her liberation was signed. This sometimes took several months and 15 days was the minimum.

Now a policy existed for freeing German women common-law criminals and asocial elements in order to employ them as workers in the German factories. It is therefore impossible to imagine that the whole of Germany was unaware of the existence of the concentration camps and of what was going on there, since these women had been released from the camps and it is difficult to believe that they never mentioned them. Besides, in the factories where the former internees were employed, the Vorarbeiterinnen (the forewomen) were German civilians in contact with the internees and able to speak to them. The forewomen from Auschwitz, who subsequently came to Siemens at Ravensbrück as Aufseherinnen, had been former workers at Siemens in Berlin. They met forewomen they had known in Berlin, and, in our presence, they told them what they had seen at Auschwitz. It is therefore incredible that this was not known in Germany.

We could not believe our eyes when we left Auschwitz and our hearts were sore when we saw the small group of 49 women; all that was left of the 230 who had entered the camp 18 months earlier. But to us it seemed that we were leaving hell itself, and for the first time hopes of survival, of seeing the world again, were vouchsafed to us.

M. DUBOST: Where were you sent then, Madame?

MME. VAILLANT-COUTURIER: On leaving Auschwitz we were sent to Ravensbrück. There we were escorted to the "NN" block—meaning "Nacht und Nebel", that is, "The Secret Block." With us in that block were Polish women with the identification number "7,000." Some were called "rabbits" because they had been used as experimental guinea pigs. They selected from the convoys girls with very straight legs who were in very good health, and they submitted them to various operations. Some of the girls had parts of the bone removed from their legs, others received injections; but what was injected, I do not know. The mortality rate was very high among the women operated upon. So when they came to fetch the others to operate on them they refused to go to the Revier. They were forcibly dragged to the dark cells where the professor, who had arrived from Berlin, operated in his uniform, without taking any aseptic precautions, without wearing a surgical gown, and without washing his hands. There are some survivors among these "rabbits." They still endure much suffering. They suffer periodically from suppurations; and since nobody knows to what treatment they had been subjected, it is extremely difficult to cure them.

M. DUBOST: Were these internees tattooed on their arrival?

MME. VAILLANT-COUTURIER: No. People were not tattooed at Ravensbrück; but, on the other hand, we had to go up for a gynecological examination, and since no precautions were ever taken and the same instruments were frequently used in all cases, infections spread, partly because common-law prisoners and political internees were all herded together.

In Block 32 where we were billeted there were also some Russian women prisoners of war, who had refused to work voluntarily in the ammunition factories. For that reason they had been sent to Ravensbrück. Since they persisted in their refusal, they were subjected to every form of petty indignity. They were, for instance, forced to stand in front of the block a whole day long without any food. Some of them were sent in convoys to Barth. Others were employed to carry lavatory receptacles in the camp. The Strafblock (penitentiary block) and the Bunker also housed internees who had refused to work in the war factories.

M. DUBOST: Are you now speaking about the prisons in the camp?

MME. VAILLANT-COUTURIER: About the prisons in the camp. As a matter of fact I have visited the camp prison. It was a civilian prison, a real one.

M. DUBOST: How many French were there in that camp?

MME. VAILLANT-COUTURIER: From 8 to 10 thousand.

M. DUBOST: How many women all told?

MME. VAILLANT-COUTURIER: At the time of liberation the identification numbers amounted to 105,000 and possibly more.

There were also executions in the camps. The numbers were called at roll call in the morning, and the victims then left for the Kommandantur and were never seen again. A few days later the clothes were sent down to the Effektenkammer, where the clothes of the internees were kept. After a certain time their cards would vanish from the filing cabinets in the camp.

M. DUBOST: The system of detention was the same as at Auschwitz?

MME. VAILLANT-COUTURIER: No. In Auschwitz, obviously, extermination was the sole aim and object. Nobody was at all interested in the output. We were beaten for no reason whatsoever. It was sufficient to stand from morning till evening but whether we carried one brick or 10 was of no importance at all. We were quite aware that the human element was employed as slave labor in order to kill us, that this was the ultimate purpose, whereas at Ravensbrück the output was of great importance. It was a clearing camp. When the convoys arrived at Ravensbrück, they were rapidly dispatched either to the munition or to the powder factories, either to work at the air fields or, latterly, to dig trenches.

The following procedure was adopted for going to the factories: The manufacturers or their foremen or else their representatives were coming themselves to choose their workers, accompanied by SS men; the effect was that of a slave market. They felt the muscles, examined the faces to see if the person looked healthy, and then made their choice. Finally, they made them walk naked past the doctor and he eventually decided if a woman was fit or not to leave for work in the factories. Latterly, the doctor's visit became a mere formality as they ended by employing anybody who came along. The work was exhausting, principally because of lack of food and sleep, since in addition to 12 solid hours of work one had to attend roll call in the morning and in the evening. In Ravensbrück there was the Siemens factory, where telephone equipment was manufactured as well as wireless sets for aircraft. Then there were

workshops in the camp for camouflage material and uniforms and for various utensils used by soldiers. One of these I know best . . .

THE PRESIDENT: I think we had better break off now for 10 minutes.

[A recess was taken.]

M. DUBOST: Madame, did you see any SS chiefs and members of the Wehrmacht visit the camps of Ravensbrück and Auschwitz when you were there?

MME. VAILLANT-COUTURIER: Yes.

M. DUBOST: Do you know if any German Government officials came to visit these camps?

MME. VAILLANT-COUTURIER: I know it only as far as Himmler is concerned. Apart from Himmler I do not know.

M. DUBOST: Who were the guards in these camps?

MME. VAILLANT-COUTURIER: At the beginning there were the SS guards, exclusively.

M. DUBOST: Will you please speak more slowly so that the interpreters can follow you?

MME. VAILLANT-COUTURIER: At the beginning there were only SS men, but from the spring of 1944 the young SS men in many companies were replaced by older men of the Wehrmacht both at Auschwitz and also at Ravensbrück. We were guarded by soldiers of the Wehrmacht as from 1944.

M. DUBOST: You can therefore testify that on the order of the German General Staff the German Army was implicated in the atrocities which you have described?

MME. VAILLANT-COUTURIER: Obviously, since we were guarded by the Wehrmacht as well, and this could not have occurred without orders.

M. DUBOST: Your testimony is final and involves both the SS and the Army.

MME. VAILLANT-COUTURIER: Absolutely.

M. DUBOST: Will you tell us about the arrival at Ravensbrück in the winter of 1944, of Hungarian Jewesses who had been arrested *en masse*? You were in Ravensbrück—this is a fact about which you can testify?

MME. VAILLANT-COUTURIER: Yes, of course I was there. There was no longer any room left in the blocks, and the prisoners already slept four in a bed, so there was raised, in the middle of the

camp, a large tent. Straw was spread in the tent, and the Hungarian women were brought to this tent. Their condition was frightful. There were a great many cases of frozen feet because they had been evacuated from Budapest and had walked a good part of the way in the snow. A great many of them had died en route. Those who arrived at Auschwitz were led to this tent and there an enormous number of them died. Every day a squad came to remove the corpses in the tent. One day, on returning to my block, which was next to this tent, during the cleaning up . . .

THE PRESIDENT: Madame, are you speaking of Ravensbrück or of Auschwitz?

MME. VAILLANT-COUTURIER: *[In English.]* Now I am speaking of Ravensbrück. *[In French.]* It was in the winter of 1944, about November or December, I believe, though I cannot say for certain which month it was. It is so difficult to give a precise date in the concentration camps since one day of torture is followed by another day of similar torment and the prevailing monotony makes it very hard to keep track of time.

One day therefore, as I was saying, I passed the tent while it was being cleaned, and I saw a pile of smoking manure in front of it. I suddenly realized that this manure was human excrement since the unfortunate women no longer had the strength to drag themselves to the lavatories. They were therefore rotting in this filth.

M. DUBOST: What were the conditions in the workshops where the jackets were manufactured?

MME. VAILLANT-COUTURIER: At the workshops where the uniforms were manufactured. . .

M. DUBOST: Was it the camp workshop?

MME. VAILLANT-COUTURIER: It was the camp workshop, known as "Schneiderei I." Two hundred jackets or pairs of trousers were manufactured per day. There were two shifts; a day and a night shift, both working 12 hours. The night shift, when starting work at midnight, after the standard amount of work had been reached—but only then—received a thin slice of bread. Later on this practice was discontinued. Work was carried on at a furious pace; the internees could not even take time off to go the lavatories. Both day and night they were terribly beaten, both by the SS women and men, if a needle broke owing to the poor quality of the thread, if the machine stopped, or if these "ladies" and "gentlemen" did not like their looks. Towards the end of the night one could see that the workers were so exhausted that every movement was an effort to them. Beads of sweat stood out on their foreheads. They could not see clearly. When the standard amount of work was not reached the foreman, Binder, rushed up and beat up, with all his might, one

woman after another all along the line, with the result that the last in the row waited their turn petrified with terror. If one wished to go to the Revier one had to receive the authorization of the SS, who granted it very rarely; and even then, if the doctor did give a woman a permit authorizing her to stay away from work for a few days, the SS guards would often come round and fetch her out of bed in order to put her back at her machine. The atmosphere was frightful since, by reason of the "black-out," one could not open the windows at night. Six hundred women therefore worked for 12 hours without any ventilation. All those who worked at the Schneiderei became like living skeletons after a few months. They began to cough, their eyesight failed, they developed a nervous twitching of the face for fear of beatings to come.

I knew well the conditions of this workshop since my little friend, Marie Rubiano, a little French girl who had just passed 3 years in the prison of Kottbus, was sent, on her arrival at Ravensbrück, to the Schneiderei; and every evening she would tell me about her martyrdom. One day, when she was quite exhausted, she obtained permission to go to the Revier; and as on that day the German Schwester (nursing sister), Erica, was less evil-tempered than usual, she was X-rayed. Both lungs were severely infected and she was sent to the horrible Block 10, the block of the consumptives. This block was particularly terrifying, since tubercular patients were not considered as "recuperable material"; they received no treatment; and because of shortage of staff, they were not even washed. We might even say that there were no medical supplies at all.

Little Marie was placed in the ward housing patients with bacillary infections, in other words, such patients as were considered incurable. She spent some weeks there and had no courage left to put up a fight for her life. I must say that the atmosphere of this room was particularly depressing. There were many patients—several to one bed in three-tier bunks—in an overheated atmosphere, lying between internees of various nationalities, so that they could not even speak to one another. Then, too, the silence in this ante-chamber of death was only broken by the yells of the German asocial personnel on duty and, from time to time, by the muffled sobs of a little French girl thinking of her mother and of her country which she would never see again.

And yet, Marie Rubiano did not die fast enough to please the SS. So one day Dr. Winkelmann, selection specialist at Ravensbrück, entered her name in the black-list and on 9 February 1945, together with 72 other consumptive women, 6 of whom were French, she was shoved on the truck for the gas chamber.

During this period, in all the Revieren, selections were made and all patients considered unfit for work were sent to the gas chamber. The Ravensbrück gas chamber was situated just behind the wall of

the camp, next to the crematory. When the trucks came to fetch the patients we heard the sound of the motor across the camp, and the noise ceased right by the crematory whose chimney rose above the high wall of the camp.

At the time of the liberation I returned to these places. I visited the gas chamber which was a hermetically sealed building made of boards, and inside it one could still smell the disagreeable odor of gas. I know that at Auschwitz the gases were the same as those which were used against the lice, and the only traces they left were small, pale green crystals which were swept out when the windows were opened. I know these details, since the men employed in delousing the blocks were in contact with the personnel who gassed the victims and they told them that one and the same gas was used in both cases.

M. DUBOST: Was this the only way used to exterminate the internees in Ravensbrück?

MME. VAILLANT-COUTURIER: In Block 10 they also experimented with a white powder. One day the German Schwester, Martha, arrived in the block and distributed a powder to some 20 patients. The patients subsequently fell into a deep sleep. Four or five of them were seized with violent fits of vomiting and this saved their lives. During the night the snores gradually ceased and the patients died. This I know because I went every day to visit the French women in the block. Two of the nurses were French and Dr. Louise Le Porz, a native of Bordeaux who came back, can likewise testify to this fact.

M. DUBOST: Was this a frequent occurrence?

MME. VAILLANT-COUTURIER: During my stay this was the only case of its kind within the Revier but the system was also applied at the Jugendlager, so called because it was a former reform school for German juvenile delinquents.

Towards the beginning of 1945 Dr. Winkelmann, no longer satisfied with selections in the Revier, proceeded to make his selections in the blocks. All the prisoners had to answer roll call in their bare feet and expose their breasts and legs. All those who were sick, too old, too thin, or whose legs were swollen with oedema, were set aside and then sent to this Jugendlager, a quarter of an hour away from the camp at Ravensbrück. I visited it at the liberation.

In the blocks an order had been circulated to the effect that the old women and the patients who could no longer work should apply in writing for admission to the Jugendlager, where they would be far better off, where they would not have to work, and where there would be no roll call. We learned about this later through some of the people who worked at the Jugendlager—the chief of the camp was

an Austrian woman, Betty Wenz, whom I knew from Auschwitz—and from a few of the survivors, one of whom is Irène Ottelard, a French woman living in Drancy, 17 Rue de la Liberté, who was repatriated at the same time as myself and whom I had nursed after the liberation. Through her we discovered the details about the Jugendlager.

M. DUBOST: Can you tell us, Madame, if you can answer this question? Were the SS doctors who made the selection acting on their own accord or were they merely obeying orders?

MME. VAILLANT-COUTURIER: They were acting on orders received, since one of them, Dr. Lukas, refused to participate in the selections and was withdrawn from the camp, and Dr. Winkelmann was sent from Berlin to replace him.

M. DUBOST: Did you personally witness these facts?

MME. VAILLANT-COUTURIER: It was he himself who told the Chief of the Block 10 and Dr. Louise Le Porz, when he left.

M. DUBOST: Could you give us some information about the conditions in which the men at the neighboring camp at Ravensbrück lived on the day after the liberation, when you were able to see them?

MME. VAILLANT-COUTURIER: I think it advisable to speak of the Jugendlager first since, chronologically speaking, it comes first.

M. DUBOST: If you wish it.

MME. VAILLANT-COUTURIER: At the Jugendlager the old women and the patients who had left our camp were placed in blocks which had no water and no conveniences; they lay on straw mattresses on the ground, so closely pressed together that one was quite unable to pass between them. At night one could not sleep because of the continuous coming and going, and the internees trod on each other when passing. The straw mattresses were rotten and teemed with lice; those who were able to stand remained for hours on end for roll call until they collapsed. In February their coats were taken away but they continued to stay out for roll call and mortality was considerably increased.

By way of nourishment they received only one thin slice of bread and half a quart of swede soup, and all the drink they got in 24 hours was half a quart of herbal tea. They had no water to drink, none to wash in, and none to wash their mess tins.

In the Jugendlager there was also a Revier for those who could no longer stand. Periodically, during the roll calls, the Aufseherin would choose some internees, who would be undressed and left in nothing but their chemises. Their coats were then returned to them. They were hoisted on to a truck and were driven off to the gas

chamber. A few days later the coats were returned to the Kammer (the clothing warehouse), and the labels were marked "Mittwerda." The internees working on the labels told us that the word "Mittwerda" did not exist and that it was a special term for the gases.

At the Revier white powder was periodically distributed, and the sick were dying as in Block 10, which I mentioned a short time ago. They made . . .

THE PRESIDENT: The details of the witness' evidence as to Ravensbrück seem to be very much like, if not the same, as at Auschwitz. Would it not be possible now, after hearing this amount of detail, to deal with the matter more generally, unless there is some substantial difference between Ravensbrück and Auschwitz.

M. DUBOST: I think there is a difference which the witness has pointed out to us, namely, that in Auschwitz the prisoners were purely and simply exterminated. It was merely an extermination camp, whereas at Ravensbrück they were interned in order to work, and were weakened by work until they died of it.

THE PRESIDENT: If there are any other distinctions between the two, no doubt you will lead the witness, I mean ask the witness about those other distinctions.

M. DUBOST: I shall not fail to do so.

[To the witness.] Could you tell the Tribunal in what condition the men's camp was found at the time of the liberation and how many survivors remained?

MME. VAILLANT-COUTURIER: When the Germans went away they left 2,000 sick women and a certain number of volunteers, myself included, to take care of them. They left us without water and without light. Fortunately the Russians arrived on the following day. We therefore were able to go to the men's camp and there we found a perfectly indescribable sight. They had been for 5 days without water. There were 800 serious cases, and three doctors and seven nurses, who were unable to separate the dead from the sick. Thanks to the Red Army, we were able to take these sick persons over into clean blocks and to give them food and care; but unfortunately I can give the figures only for the French. There were 400 of them when we came to the camp and only 150 were able to return to France; for the others it was too late, in spite of all our care.

M. DUBOST: Were you present at any of the executions and do you know how they were carried out in the camp?

MME. VAILLANT-COUTURIER: I was not present at the executions. I only know that the last one took place on 22 April, 8 days before the arrival of the Red army. The prisoners were sent, as I

said, to the Kommandantur; then their clothes were returned and their cards were removed from the files.

M. DUBOST: Was the situation in this camp of an exceptional nature or do you consider it was part of a system?

MME. VAILLANT-COUTURIER: It is difficult to convey an exact idea of the concentration camps to anybody, unless one has been in the camp oneself, since one can only quote examples of horror; but it is quite impossible to convey any impression of that deadly monotony. If asked what was the worst of all, it is impossible to answer, since everything was atrocious. It is atrocious to die of hunger, to die of thirst, to be ill, to see all one's companions dying around one and being unable to help them. It is atrocious to think of one's children, of one's country which one will never see again, and there were times when we asked whether our life was not a living nightmare, so unreal did this life appear in all its horror.

For months, for years we had one wish only: The wish that some of us would escape alive, in order to tell the world what the Nazi convict prisons were like everywhere, at Auschwitz as at Ravensbrück. And the comrades from the other camps told the same tale; there was the systematic and implacable urge to use human beings as slaves and to kill them when they could work no more.

M. DUBOST: Have you anything further to relate?

MME. VAILLANT-COUTURIER: No.

M. DUBOST: I thank you. If the Tribunal wishes to question the witness, I have finished.

GEN. RUDENKO: I have no questions to ask.

DR. HANNS MARX (Acting for Dr. Babel, Counsel for the SS): Attorney Babel was prevented from coming this morning as he has to attend a conference with General Mitchell.

My Lords, I should like to take the liberty of asking the witness a few questions to elucidate the matter.

[Turning to the witness.] Madame Couturier, you declared that you were arrested by the French police?

MME. VAILLANT-COUTURIER: Yes.

DR. MARX: For what reason were you arrested?

MME. VAILLANT-COUTURIER: Resistance. I belonged to a resistance movement.

DR. MARX: Another question: Which position did you occupy? I mean what kind of post did you ever hold? Have you ever held a post?

MME. VAILLANT-COUTURIER: Where?

DR. MARX: For example as a teacher?

MME. VAILLANT-COUTURIER: Before the war? I don't quite see what this question has to do with the matter. I was a journalist.

DR. MARX: Yes. The fact of the matter is that you, in your statement, showed great skill in style and expression; and I should like to know whether you held any position such, for example, as teacher or lecturer.

MME. VAILLANT-COUTURIER: No. I was a newspaper photographer.

DR. MARX: How do you explain that you yourself came through these experiences so well and are now in such a good state of health?

MME. VAILLANT-COUTURIER: First of all, I was liberated a year ago; and in a year one has time to recover. Secondly, I was 10 months in quarantine for typhus and I had the great luck not to die of exanthematic typhus, although I had it and was ill for 3½ months. Also, in the last months at Ravensbrück, as I knew German, I worked on the Revier roll call, which explains why I did not have to work quite so hard or to suffer from the inclemencies of the weather. On the other hand, out of 230 of us only 49 from my convoy returned alive; and we were only 52 at the end of 4 months. I had the great fortune to return.

DR. MARX: Yes. Does your statement contain what you yourself observed or is it concerned with information from other sources as well?

MME. VAILLANT-COUTURIER: Whenever such was the case I mentioned it in my declaration. I have never quoted anything which has not previously been verified at the sources and by several persons, but the major part of my evidence is based on personal experience.

DR. MARX: How can you explain your very precise statistical knowledge, for instance, that 700,000 Jews arrived from Hungary?

MME. VAILLANT-COUTURIER: I told you that I have worked in the offices; and where Auschwitz was concerned, I was a friend of the secretary (the Oberaufseherin), whose name and address I gave to the Tribunal.

DR. MARX: It has been stated that only 350,000 Jews came from Hungary, according to the testimony of the Chief of the Gestapo, Eichmann.

MME. VAILLANT-COUTURIER: I am not going to argue with the Gestapo. I have good reasons to know that what the Gestapo states is not always true.

DR. MARX: How were you treated personally? Were you treated well?

MME. VAILLANT-COUTURIER: Like the others.

DR. MARX: Like the others? You said before that the German people must have known of the happenings in Auschwitz. What are your grounds for this statement?

MME. VAILLANT-COUTURIER: I have already told you: To begin with there was the fact that, when we left, the Lorraine soldiers of the Wehrmacht who were taking us to Auschwitz said to us, "If you knew where you were going, you would not be in such a hurry to get there." Then there was the fact that the German women who came out of quarantine to go to work in German factories knew of these events, and they all said that they would speak about them outside.

Further, the fact that in all the factories where the Häftlinge (the internees) worked they were in contact with the German civilians, as also were the Aufseherinnen, who were in touch with their friends and families and often told them what they had seen.

DR. MARX: One more question. Up to 1942 you were able to observe the behavior of the German soldiers in Paris. Did not these German soldiers behave well throughout and did they not pay for what they took?

MME. VAILLANT-COUTURIER: I have not the least idea whether they paid or not for what they requisitioned. As for their good behavior, too many of my friends were shot or massacred for me not to differ with you.

DR. MARX: I have no further question to put to this witness.

[Dr. Marx started to leave the lectern and then returned.]

THE PRESIDENT: If you have no further question there is nothing more to be said. *[Laughter.]* There is too much laughter in the court; I have already spoken about that.

[To Dr. Marx.] I thought you had said you had no further question.

DR. MARX: Yes. Please excuse me. I only want to make a proviso for Attorney Babel that he might cross-examine the witness himself at a later date, if that is possible.

THE PRESIDENT: Babel, did you say?

DR. MARX: Yes.

THE PRESIDENT: I beg your pardon; yes, certainly. When will Dr. Babel be back in his place?

DR. MARX: I presume that he will be back in the afternoon. He is in the building. However, he must first read the minutes.

THE PRESIDENT: We will consider the question. If Dr. Babel is here this afternoon we will consider the matter, if Dr. Babel makes a further application.

Does any other of the defendants' counsel wish to ask any questions of the witness?

[There was no response.]

M. Dubost, have you any questions you wish to ask on re-examination?

M. DUBOST: I have no further questions to ask.

THE PRESIDENT: Then the witness may retire.

[The witness left the stand.]

M. DUBOST: If the Tribunal will kindly allow it, we shall now hear another witness, M. Veith.

THE PRESIDENT: Are you calling this witness on the treatment of prisoners in concentration camps?

M. DUBOST: Yes, Mr. President, and also because this witness can give us particulars of the ill-treatment to which certain prisoners of war had been exposed in the camps of internees. This is no longer a question of concentration camps and of ill-treatment inflicted upon civilians in those camps, but of soldiers who had been brought to the concentration camps and subjected to the same cruelty as the civilian prisoners.

THE PRESIDENT: Well, you won't lose sight of the fact that there has been practically no cross-examination of the witnesses you have already called about the treatment in concentration camps? The Tribunal, I think, feels that you could deal with the treatment in concentration camps somewhat more generally than the last witness. Do you hear what I say?

M. DUBOST: Yes, Your Honor.

THE PRESIDENT: The Tribunal thinks that you could deal with the question of treatment in concentration camps rather more generally now, since we have heard the details from the witnesses whom you have already called.

[The witness, Veith, took the stand.]

M. DUBOST: Is the Tribunal willing to hear this witness?

THE PRESIDENT: Yes.

[To the witness.] What is your name?

M. JEAN-FRÉDÉRIC VEITH (Witness): Jean-Frédéric Veith.

THE PRESIDENT: Will you repeat this oath: I swear that I will speak without hate or fear, that I will tell the truth, all the truth, nothing but the truth.

[The witness repeated the oath in French.]

THE PRESIDENT: Raise your right hand and say, "I swear."

VEITH: I swear it.

THE PRESIDENT: Would you like to sit down and spell your name and surname?

M. DUBOST: Will you please spell your name and surname?

VEITH: J-e-a-n F-r-é-d-é-r-i-c V-e-i-t-h. I was born on 28 April 1903 in Moscow.

M. DUBOST: You are of French nationality?

VEITH: I am of French nationality, born of French parents.

M. DUBOST: In which camp were you interned?

VEITH: At Mauthausen; from 22 April 1943 until 22 April 1945.

M. DUBOST: You knew about the work carried out in the factories supplying material to the Luftwaffe. Who controlled these factories?

VEITH: I was in the Arbeitseinsatz at Mauthausen from June 1943, and I was therefore well acquainted with all questions dealing with the work.

M. DUBOST: Who controlled the factories working for the Luftwaffe?

VEITH: There were outside camps at Mauthausen where workers were employed by Heinkel, Messerschmidt, Alfa-Vienne, and the Saurer-Werke, and there was, moreover, the construction work on the Leibl Pass tunnel by the Alpine Montan.

M. DUBOST: Who controlled this work, supervisors or engineers?

VEITH: There was only SS supervision. The work itself was controlled by the engineers and the firms themselves.

M. DUBOST: Did these engineers belong to the Luftwaffe?

VEITH: On certain days I saw Luftwaffe officers who came to visit the Messerschmidt workshops in the quarry.

M. DUBOST: Were they able to see for themselves the conditions under which the prisoners lived?

VEITH: Yes, certainly.

M. DUBOST: Did you see any high-ranking Nazi officials visiting the camp?

VEITH: I saw a great many high-ranking officials, among them Himmler, Kaltenbrunner, Pohl, Maurer, the Chief of the Labor Office, Amt D II, of the Reich, and many other visitors whose names I do not know.

M. DUBOST: Who told you that Kaltenbrunner had come?

VEITH: Well, our offices faced the parade ground overlooking the Kommandantur; we therefore saw the high-ranking officials

arriving, and the SS men themselves would tell us, "There goes so and so."

M. DUBOST: Could the civilian population know, and did it know of the plight of the internees?

VEITH: Yes, the population could know, since at Mauthausen there was a road near the quarry and those who passed by that road could see all that was happening. Moreover, the internees worked in the factories. They were separated from the other workers, but they had certain contacts with them and it was quite easy for the other workers to realize their plight.

M. DUBOST: Can you tell us what you know about a journey, to an unknown castle, of a bus carrying prisoners who were never seen again?

VEITH: At one time a method for the elimination of sick persons by injections was adopted at Mauthausen. It was particularly used by Dr. Krebsbach, nick-named "Dr. Spritzbach" by the prisoners since it was he who had inaugurated the system of injections. There came a time when the injections were discontinued, and then persons who were too sick or too weak were sent to a castle which, we learned later, was called Hartheim, but was officially known as a Genesungslager (convalescent camp). Of all of those who went there, none ever returned. We received the death certificates directly from the political section of the camp; these certificates were secret. Everybody who went to Hartheim died. The number of dead amounted to about 5,000.

M. DUBOST: Did you see prisoners of war arrive at Mauthausen Camp?

VEITH: Certainly I saw prisoners of war. Their arrival at Mauthausen Camp took place, first of all, in front of the political section. Since I was working at the Hollerith I could watch the arrivals, for the offices faced the parade ground in front of the political section where the convoys arrived. The convoys were immediately sorted out. One part was sent to the camp for registration, and very often some of the uniformed prisoners were set aside; these had already been subjected to special violence in the political section and were handed straight over to the prison guards. They were then sent to the prisons and never heard of again. They were not registered in the camp. The only registration was made in the political section by Müller who was in charge of these prisoners.

M. DUBOST: They were prisoners of war?

VEITH: They were prisoners of war. They were very often in uniform.

M. DUBOST: Of what nationality?

VEITH: Mostly Russians and Poles.

M. DUBOST: They were brought to your camp to be killed there?

VEITH: They were brought to our camp for "Action K."

M. DUBOST: What do you know about Action K and how do you know it?

VEITH: My knowledge of Action K is due to the fact that I was head of the Hollerith service in Mauthausen, and consequently received all the transfer forms from the various camps. And when prisoners were erroneously transferred to us as ordinary prisoners, we would put it on the transfer form which we had to send to the central office in Berlin, or rather, we would not put any number at all, as we were unable to give one. The "Politische" gave us no indications at all and even destroyed the list of names if, by chance, it ever reached us.

In conversations with my comrades of the "Politische" I discovered that this Action K was originally applied to prisoners of war who had been captured while attempting to escape. Later this action was extended further still, but always to soldiers and especially to officers who had succeeded in escaping but who had been recaptured in countries under German control.

Moreover, any person engaged in activities which might be interpreted as not corresponding to the wishes of the fascist chiefs could also be subjected to Action K. These prisoners arrived at Mauthausen and disappeared, that is, they were taken to the prison where one part would be executed on the spot and another sent to the annex of the prison, which by this time had become too small to hold them, to the famous Block 20 of Mauthausen.

M. DUBOST: You definitely state that these were prisoners of war?

VEITH: Yes, they were prisoners of war, most of them.

M. DUBOST: Do you know of an execution of officers, prisoners of war, who had been brought to the camp at Mauthausen?

VEITH: I cannot give you any names, but there were some.

M. DUBOST: Did you witness the execution of Allied officers who were murdered within 48 hours of their arrival in camp?

VEITH: I saw the arrival of the convoy of 6 September. I believe that is the one you are thinking of; I saw the arrival of this convoy and in the very same afternoon these 47 went down to the quarry dressed in nothing but their shirts and drawers. Shortly

after we heard the sound of machine gun fire. I then left the office and passed at the back, pretending I was carrying documents to another office, and with my own eyes I saw these unfortunate people shot down; 19 were executed on the very same afternoon and the remainder on the following morning. Later on, all the death certificates were marked, "Killed while attempting to escape."

M. DUBOST: Do you have the names?

VEITH: Yes, I have a copy of the names of these prisoners.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: If the Court please, it is desired to announce that the Defendant Kaltenbrunner will be absent from this afternoon's session on account of illness.

THE PRESIDENT: You may go on, M. Dubost.

M. DUBOST: We are going to complete the hearing of the witness Veith, to whom, however, I have only one more question to put.

THE PRESIDENT: Have him brought in.

[The witness, Veith, took the stand.]

M. DUBOST: You continue to testify under the oath that you already made this morning.

Will you give some additional information concerning the execution of the 47 Allied officers whom you saw shot in 48 hours at Camp Mauthausen where they had been brought?

VEITH: Those officers, those parachutists, were shot in accordance with the usual systems used whenever prisoners had to be done away with. That is to say, they were forced to work to excess, to carry heavy stones. Then they were beaten until they took heavier ones; and so on and so forth until, finally driven to extremity, they turned towards the barbed wire. If they did not do it of their own accord, they were pushed there; and they were beaten until they did so; and the moment they approached it and were perhaps about one meter away from it, they were mown down by machine guns fired by the SS guards in the watchtowers. This was the usual system for the "killing for attempted escape" as they afterwards called it.

Those 47 men were killed on the afternoon of the 6th and morning of the 7th of September.

M. DUBOST: How did you know their names?

VEITH: Their names came to me with the official list, because they had all been entered in the camp registers and I had to report to Berlin all the changes in the actual strength of the Hollerith Section. I saw all the rosters of the dead and of the new arrivals.

M. DUBOST: Did you communicate this list to an official authority?

VEITH: This list was taken by the American official authorities when I was at Mauthausen. I immediately went back to Mauthausen after my liberation, because I knew where the documents were; and

the American authorities then had all the lists which we were able to find.

M. DUBOST: Mr. President, I have no further questions to ask the witness.

THE PRESIDENT: Does the British Prosecutor want to ask any questions?

BRITISH PROSECUTOR: No.

THE PRESIDENT: Does the United States Prosecutor?

UNITED STATES PROSECUTOR: No.

THE PRESIDENT: Do any members of the Defense Counsel wish to ask any questions?

HERR BABEL: I am the defense counsel for the SS and SD. Mr. President, I was in the Dachau Camp on Saturday and at the Augsburg-Göggingen Camp yesterday. I found out various things there which now enable me to question individual witnesses. I could not do this before, as I was not acquainted with local conditions. I should like to put one question. I was unable to attend here this morning on account of a conference to which I was called by General Mitchell. Consequently I did not have the cross-examination of the witness this morning. I have only one question to put to the witness now. I should like to ask whether I may cross-examine the witness further later, or if it is better to withdraw the question?

THE PRESIDENT: You can cross-examine this witness now, but the Tribunal is informed that you left General Mitchell at 15 minutes past 10.

HERR BABEL: Yes, but as a consequence of the conference I had to send a telegram and dispatch some other pressing business so that it was impossible for me to attend the session.

THE PRESIDENT: You can certainly cross-examine the witness now.

HERR BABEL: I have only one more question, namely: The witness stated that the officers in question were driven toward the wire fence. By whom were they so driven?

VEITH: They were driven to the barbed wire by the SS guards who accompanied them, and the entire Mauthausen staff was present. They were also beaten by the SS and by one or two "green" prisoners, who were with them and who were the "Kapo." In the camps these "green" prisoners were often worse than the SS themselves.

HERR BABEL: Thus, in the Dachau Camp, inside the camp itself, within the wire enclosure, there were almost no SS guards, and that was probably also the case in Mauthausen? However . . .

VEITH: Inside the camp there was only a limited number of SS, but they changed, and none of those who belonged to the troops guarding the camp could fail to be aware of what went on in it; even if they did not enter the camp, they watched it from the watchtowers and from outside, and they saw precisely everything.

HERR BABEL: Were the guards who shot at the prisoners inside or outside the wire enclosure?

VEITH: They were in the watchtowers in the same line as the barbed wire.

HERR BABEL: Could they see from there that the officers were driven to the barbed wire by anyone by means of blows? Could they observe that they were driven there and beaten?

VEITH: They could see it so well that once or twice some of the guards refused to shoot, saying that it was not an attempt to escape and they would not shoot. They were immediately relieved from their posts, and disappeared.

HERR BABEL: Did you see that yourself?

VEITH: I did not see it myself, but I heard about it; it was told by my Kommandoführer among others, who said to me, "There's a watchguard who refused to shoot."

HERR BABEL: Who was this Kommandoführer? The chief of the group?

VEITH: The Kommandoführer was Wielemann. I do not remember his rank. He was not Unterscharführer, but the rank immediately below Unterscharführer, and he was in charge of the Hollerith section in Mauthausen.

HERR BABEL: I thank you.

I have no more questions to ask just now. I shall, however, make application to call the witness again, and I shall then take the opportunity to ask the rest, to put such further questions to him as I consider necessary. I request you to retain him for this purpose, here in Nuremberg. I am not in a position to cross-examine the witness this afternoon, as I did not hear his statements this morning, and I would request that the witness . . .

THE PRESIDENT: You ought to have been here. If you were released from an interview with General Mitchell at 1015, there seems to the Tribunal, to me at any rate, to be no reason why you should not have been here while this witness was being examined.

HERR BABEL: Mr. President, this morning I discussed with General Mitchell some questions with which I have been occupied for a long time. General Mitchell agreed in the course of our conversation that my duties and activities are so extensive that it will now be necessary to appoint a second defense counsel for the SS; my presence at the sessions claims so much of my working time and has become so exhausting and so burdensome that I am often compelled to be absent from the Court. I am sorry, but in the prevailing circumstances, I cannot help it.

Further, I would like to say this: So far, over 40,000 members of the SS have made applications to the Tribunal; and although many of these are collective and not individual applications, you can imagine how wide the field is.

THE PRESIDENT: Yes, no doubt your work is extensive, but this morning, as I have already told you, General Mitchell has informed the Tribunal that his interview with you finished at 10:15; and it appears to the Tribunal that you must have known that the witnesses who were giving evidence this morning were giving evidence about concentration camps.

In addition to that, you had obtained the assistance of another counsel, I think, Dr. Marx, to appear on your behalf, and he did appear on your behalf; and he will have an opportunity of cross-examining this witness if he wishes to do so now. The Tribunal considers that you must conclude your cross-examination of this witness now. I mean to say, you may ask any further questions of the witness that you wish.

HERR BABEL: It all amounts to whether I can put a question, and this I cannot do at the moment; therefore, I must renounce the cross-examination of the witness.

THE PRESIDENT: Are there any other questions to put, M. Dubost? There may be some other German counsel who wish to cross-examine this witness.

M. Dubost, do you wish to address the Tribunal?

M. DUBOST: Your Honor, I would like to state to the Tribunal that we have no reason whatsoever to fear a cross-examination of our witness or of this morning's witness, at any time; and we are ready to ask our witnesses to stay in Nuremberg as long as may be necessary to reply to any questions from the Defense.

THE PRESIDENT: Dr. Babel, in view of the offer of the French Prosecutor to keep the witness in Nuremberg, the Tribunal will allow you to put any questions you wish to put to him in the course of the next 2 days. Do you understand?

HERR BABEL: Yes.

DR. KURT KAUFFMANN (Counsel for Defendant Kaltenbrunner): Before I question the witness, I allow myself to raise one point which, I believe, will have an important influence on the good progress of the proceedings. The point I wish to raise is the following, and I speak in the name of my colleagues as well: Would it not be well to come to an agreement that both the Prosecution and the Defense be informed the day before a witness is brought in, which witness is to be heard? The material has now become so considerable that circumstances make it impossible to ask pertinent questions, questions which are urgently necessary in the interest of all parties.

As far as the Defense is concerned, we are ready to inform the Tribunal and the Prosecution of the witnesses we intend to ask for examination, at least one day before they are to be heard.

THE PRESIDENT: The Tribunal has already expressed its wish that they should be informed beforehand of the witnesses who are to be called and upon what subject. I hope that Counsel for the Prosecution will take note of this wish.

DR. KAUFFMANN: Yes, I thank you.

A point of special significance emerges from the statements of the witness we heard this morning, as well as from the statements of this witness; and this point concerns something which may be of decisive importance for the Trial as a whole. The Prosecution . . .

THE PRESIDENT: You are not here to make a speech at the moment. You are to ask the witness questions.

DR. KAUFFMANN: Yes. It is the question of the responsibility of the German people. The witness has stated that the civilian population was in a position to know what was going on. I shall now try to ascertain the truth by means of a series of questions.

Did civilians look on when executions took place? Would you answer this?

VEITH: They could see the corpses scattered along the roads when the prisoners were shot while returning in convoys, and corpses were even thrown from the trains. And they could always take note of the emaciated condition of these prisoners who worked outside, because they saw them.

DR. KAUFFMANN: Do you know that it was forbidden on pain of death to say anything outside the camp about the atrocities, anything in the way of cruelties, torture, *et cetera,* that took place inside?

VEITH: As I spent 2 years in the camp I saw them. Some of them I saw myself, and the rest were described to me by eyewitnesses.

DR. KAUFFMANN: Could you please repeat that again? Did you see the secrecy order? What did you see?

VEITH: Not the order, I saw the execution and that is worse.

DR. KAUFFMANN: My question was this: Do you know that the strictest orders were given to the SS personnel, to the executioners, *et cetera,* not to speak even inside the camp, much less outside of it, of the atrocities that went on and that eyewitnesses who spoke of them rendered themselves liable to the most rigorous penalties, including the death penalty? Do you know anything about that, about such a practice inside the camps? Perhaps you will tell me whether you yourself were allowed to talk about any observations of the kind.

VEITH: I know that liberated prisoners had to sign a statement saying that they would never reveal what had happened in the camp and that they had to forget what had happened; but those who were in contact with the population, and there were many of them, did not fail to talk about it. Furthermore, Mauthausen was situated on a hill. There was a crematorium, which emitted flames 3 feet high. When you see flames 3 feet high coming out of a chimney every night, you are bound to wonder what it is; and everyone must have known that it was a crematorium.

DR. KAUFFMANN: I have no further question. Thank you.

THE PRESIDENT: Does any other counsel for the defendants wish to ask any questions? Did you tell us who the "green prisoners" were? You mentioned "green prisoners."

VEITH: Yes, these "green prisoners" were prisoners convicted under the common law. They were used by the SS to police the camps. As I have already said, they were often more bestial than the SS themselves and acted as their executioners. They did the work with which the SS did not wish to soil their hands; they were doing all the dirty work, but always by order of the Kommandoführer.

This contact with the "green" Germans was terrible for the internees, particularly for the political internees. They could not bear the sight of them, because they realized that we were not their sort, and they persecuted us for that alone. It was the same in all the camps. In all the camps we were bullied by the German criminals serving with the SS.

THE PRESIDENT: M. Dubost, do you wish to ask any other question?

M. DUBOST: Your Honor, I have no more questions to ask.

THE PRESIDENT: Then the witness can retire.

[The witness left the stand.]

M. DUBOST: I shall request the Tribunal to authorize us to hear the French witness, Dr. Dupont.

THE PRESIDENT: Yes. Very well.

[The witness, Dupont, took the stand.]

THE PRESIDENT: Is your name Dr. Dupont?

DR. VICTOR DUPONT (Witness): Dupont, Victor.

THE PRESIDENT: Will you repeat this oath after me? I swear that I will speak without hate or fear, that I will tell the truth, all the truth, nothing but the truth.

[The witness repeated the oath in French.]

THE PRESIDENT: Raise your right hand and say, "I swear."

DUPONT: I swear.

THE PRESIDENT: You may sit down.

M. DUBOST: Your name is Victor Dupont?

DUPONT: Yes, I am called Victor Dupont.

M. DUBOST: You were born on 12 December 1909?

DUPONT: That is correct.

M. DUBOST: At Charmes in the Vosges?

DUPONT: That is correct.

M. DUBOST: You are of French nationality, born of French parents?

DUPONT: That is correct.

M. DUBOST: You have won honorable distinctions. What are they?

DUPONT: I have the Legion of Honor, I am a Chevalier of the Legion of Honor. I have 2 Army citations, and I have the Resistance Medal.

M. DUBOST: Were you deported to Buchenwald?

DUPONT: I was deported to Buchenwald on 24 January 1944.

M. DUBOST: You stayed there?

DUPONT: I stayed there 15 months.

M. DUBOST: Until 20 May 1945?

DUPONT: No, until 20 April 1945.

M. DUBOST: Will you make your statement on the regime in the concentration camp where you were interned and the aim of those who prescribed this regime?

DUPONT: When I arrived at Buchenwald I soon became aware of the difficult living conditions. The regime imposed upon the prisoners was not based on any principle of justice. The principle which formed the basis of this regime was the principle of the purge. I will explain.

We—I am speaking of the French—were grouped together at Buchenwald almost all of us, without having been tried by any Tribunal. In 1942, 1943, 1944, and 1945, it was quite unusual to pass any formal judgment on the prisoners. Many of us were interrogated and then deported; others were cleared by the interrogation and deported all the same. Others again were not interrogated at all. I shall give you three examples.

On 11 November 1943 elements estimated at several hundred persons were arrested at Grenoble during a demonstration commemorating the Armistice. They were brought to Buchenwald, where the greater part died. The same thing happened in the village of Verchenie (Drôme) in October 1943. I saw them at Buchenwald too. It happened again in April 1944 at St. Claude, and I saw these people brought in in August 1944.

In this way, various elements were assembled at Buchenwald subject to martial law. But there were also all kinds of people, including some who were obviously innocent, who had either been cleared by interrogation or not even interrogated at all. Finally, there were some political prisoners. They had been deported because they were members of parties which were to be suppressed.

That does not mean that the interrogations were not to be taken seriously. The interrogations which I underwent and which I saw others undergo were particularly inhuman. I shall enumerate a few of the methods:

Every imaginable kind of beating, immersion in bathtubs, squeezing of testicles, hanging, crushing of the head in iron bands, and the torturing of entire families in each others' sight. I have, in particular, seen a wife tortured before her husband; and children were tortured before their mothers. For the sake of precision, I will quote one name: Francis Goret of the Rue de Bourgogne in Paris was tortured before his mother. Once in the camp, conditions were the same for everyone.

M. DUBOST: You spoke of racial purging as a social policy. What was the criterion?

DUPONT: At Buchenwald various elements described as "political," "national"—mainly Jews and Gypsies—and "asocial"—especially criminals—were herded together under the same regime. There were criminals of every nation: Germans, Czechs, Frenchmen, *et cetera*, all living together under the same regime. A purge does

not necessarily imply extermination, but this purge was achieved by means of the extermination already mentioned. It began for us in certain cases; the decision was taken quite suddenly. I shall give one example. In 1944 a convoy of several hundred Gypsy children arrived at Buchenwald, by what administrative mystery we never knew. They were assembled during the winter of 1944 and were to be sent on to Auschwitz to be gassed. One of the most tragic memories of my deportation is the way in which these children, knowing perfectly well what was in store for them, were driven into the vans, screaming and crying. They went on to Auschwitz the same day.

In other cases the extermination was carried out by progressive stages. It had already begun when the convoy arrived. For instance, in the French convoy which left Compiègne on 24 January 1944 and arrived on 26 January, I saw one van containing 100 persons, of which 12 were dead and 8 insane. During the period of my deportation I saw numerous transports come in. The same thing happened every time; only the numbers varied. In this way the elimination of a certain proportion had already been achieved when the convoy arrived. Then they were put in quarantine and exposed to cold for several hours, while roll call was taken. The weaker died. Then came extermination through work. Some of them were picked out and sent to Kommandos such as Dora, S III, and Laura. I noticed that after those departures, which took place every month, when the contingent was brought up to strength again, truck-loads of dead were brought back to Buchenwald. I even attended the post-mortems on them, and I can tell you the results. The lesions were those of a very advanced stage of cachexy. Those who had stood up to conditions for one, two, or three months very often exhibited the lesions characteristic of acute tuberculosis, mostly of the granular type. In Buchenwald itself prisoners had to work; and there, as everywhere else, the only hope of survival lay in work. Extermination in Buchenwald was carried out in accordance with a principle of selection laid down by the medical officer in charge, Dr. Shiedlauski. These selections . . .

M. DUBOST: Excuse me for interrupting. What is the nationality of this medical officer in charge?

DUPONT: He was a German SS doctor.

M. DUBOST: Are you sure of that?

DUPONT: Yes, I am quite sure.

M. DUBOST: Are you testifying as an eyewitness?

DUPONT: I am testifying as an eyewitness.

M. DUBOST: Go on, please.

DUPONT: Shiedlauski carried out the selection and picked out the sick and invalids. Prior to January 1945 they were sent to Auschwitz; later on they went to Bergen-Belsen. None of them ever returned.

Another case which I witnessed concerns a Jewish labor squad which was sent to Auschwitz and stayed there several months. When they came back, they were unfit for even the lighter work. A similar fate overtook them. They also were sent to Auschwitz again. I myself personally witnessed these things. I was present at the selection and I witnessed their departure.

Later on, the executions in Buchenwald took place in the camp itself. To my own knowledge they began in September 1944 in room 7, a little room in the Revier. The men were done away with by means of inter-cardiac injections. The output was not great; it did not exceed a few score a day, at the most.

Later on more and more convoys came in, and the number of cachexy cases increased. The executions had to be speeded up. At first they were carried out as soon as the transports arrived; but from January 1945 onwards they were taken care of in a special block, Block 61. At that date all those nicknamed "Mussulmans" on account of their appearance were collected in this block. We never saw them without their blankets over their shoulders. They were unfit for even the lightest work. They all had to go through Block 61. The death toll varied daily from a minimum of 10 to about 200 in Block 61. The execution was performed by injecting phenol into the heart in the most brutal manner. The bodies were then carted to the crematorium mostly during roll calls or at night. Finally, extermination was also always assured at the end by convoys. The convoys which left Buchenwald while the Allies were advancing were used to assure extermination.

To give an example: At the end of March 1945 elements withdrawn from the S III detachment arrived at Buchenwald. They were in a state of complete exhaustion when they arrived and quite unfit for any kind of exertion. They were the first to be re-expedited, two days after their arrival. It was only about half a mile from their starting-point in the small camp, that is, at the back of the Buchenwald Camp, to their point of assembly for roll call; and to give you an idea of the state of weakness in which these people were, I need only say that between this starting point and their assembly point, that is, over a distance of half a mile, we saw 60 of them collapse and die. They could not go on further. Most of them died very soon, in a few hours or in the course of the next day. So much for the systematic extermination which I witnessed in Buchenwald, including . . .

M. DUBOST: What about those who were left?

DUPONT: Those who were left when the last convoy went out? That is a complicated story. We were deeply grieved about them. About the 1st of April, though I cannot guarantee the exact date, the commander of the camp, Pister, assembled a large number of prisoners and addressed them as follows:

"The Allied advance has already reached the immediate neighborhood of Buchenwald. I wish to hand over to the Allies the keys of the camp. I do not want any atrocities. I wish the camp as a whole to be handed over."

As a matter of actual fact, the Allied advance was held up, more than we wanted at least, and evacuation was begun. A delegation of prisoners went to see the commander, reminding him of his word, for he had given his word emphasizing that it was his "word of honor as a soldier." He seemed acutely embarrassed and explained that Sauckel, the Governor of Thuringia, had given orders that no prisoner should remain in Buchenwald, for that constituted a danger to the province.

Furthermore, we knew that all who knew the secrets of the administration of Buchenwald Camp would be put out of the way. A few days before we were liberated 43 of our comrades belonging to different nationalities were called out to be done away with, and an unusual phenomenon occurred. The camp revolted; the men were hidden and never given up. We also knew that under no circumstances would anyone who had been employed, either in the experimental block or in the infirmary, be allowed to leave the camp. That is all I have to say about the last few days.

M. DUBOST: This officer in command of the camp, whom you have just said gave his word of honor as a soldier, was he a soldier?

DUPONT: His attitude towards the prisoners was ruthless; but he had his orders. Frankly, he was a particular type of soldier; but he was not acting on his own initiative in treating the prisoners in this way.

M. DUBOST: To what branch of the service did he belong?

DUPONT: He belonged to the SS Totenkopf Division.

M. DUBOST: Was he an SS man?

DUPONT: Yes, he was an SS man.

M. DUBOST: He was acting on orders, you say?

DUPONT: He was certainly acting on orders.

M. DUBOST: For what purposes were the prisoners used?

DUPONT: The prisoners were used in such a way that no attention was paid to the fact that they were human beings. They were

used for experimental purposes. At Buchenwald the experiments were made in Block 46. The men who were to be employed there were always selected by means of a medical examination. On those occasions when I was present it was performed by Dr. Shiedlauski, of whom I have already spoken.

M. DUBOST: Was he a doctor?

DUPONT: Yes, he was a doctor. The internees were used for the hardest labor; in the Laura mines, working in the salt mines as, for instance, in the Mansleben-am-See Kommando, clearing up bomb debris. It must be remembered that the more difficult the labor conditions were, the harsher was the supervision by the guards.

The internees were used in Buchenwald for any kind of labor; in earth works, in quarries, and in factories. To cite a particular case: There were two factories attached to Buchenwald, the Gustloff works and the Mühlbach works. They were munition factories under technical and non-military management. In this particular case there was some sort of rivalry between the SS and the technical management of the factory. The technical management, concerned with its output, took the part of the prisoners to the extent of occasionally obtaining supplementary rations for them. Internee labor had certain advantages. The cost was negligible, and from a security point of view the maximum of secrecy was ensured, as the internees had no contact with the outside world and therefore no leakage was possible.

M. DUBOST: You mean leakage of military information?

DUPONT: I mean leakage of military information.

M. DUBOST: Could outsiders see that the internees were ill-treated and wretched?

DUPONT: That is another question, certainly.

M. DUBOST: Will you answer it later?

DUPONT: I shall answer it later. I have omitted one detail. The internees were also used to a certain extent after death. The ashes resulting from the cremations were thrown into the excrement pit and served to fertilize the fields around Buchenwald. I add this detail because it struck me vividly at the time.

Finally, as I said, work, whatever it might be, was the internees' only chance of survival. As soon as they were no longer of any possible use, they were done for.

M. DUBOST: Were not internees used as "blood donors," involuntary of course?

DUPONT: I forgot that point. Prisoners assigned to light work, whose output was poor, were used as blood donors. Members of the Wehrmacht came several times. I saw them twice at Buchenwald, taking blood from these men. The blood was taken in a ward known as CP-2, that is, Operation Ward 2.

M. DUBOST: This was done on orders from higher quarters?

DUPONT: I do not see how it could have been done otherwise.

M. DUBOST: On their own initiative?

DUPONT: Not on the initiative of anyone in the camp. These elements had nothing to do with the camp administration or the guards. I must make it clear that those whom I saw belonged to the Wehrmacht, whereas we were guarded by SS, all of them from the Totenkopf Division. Towards the end, a special use was made of them.

In the early months of 1945, members of the Gestapo came to Buchenwald and took away all the papers of those who had died, in order to re-establish their identity and to make out forged papers. One Jew was specially employed to touch up photographs and to adapt the papers which had belonged to the dead for the use of persons whom, of course, we did not know. The Jew disappeared, and I do not know what became of him. We never saw him again.

But this utilization of identification papers was not confined to the dead. Several hundred French internees were summoned to the "Fliegerverwaltung" and there subjected to a very precise interrogation on their person, their connections, their convictions, and their background. They were then told that they would on no account be allowed to receive any correspondence, or even parcels—those of them who ever received any. From an administrative point of view all traces of them were effaced and contact with the outside world was rendered even more impossible for them than it had been under ordinary circumstances. We were deeply concerned about the fate of these comrades. We were liberated very soon after that, and I can only say that prisoners were used in this way, that their identification papers were used for manufacturing forged documents.

M. DUBOST: What was the effect of this kind of life?

DUPONT: The effect of this kind of life on the human organism?

M. DUBOST: On the human organism.

DUPONT: As to the human organism, there was only one effect: the degradation of the human being. The living conditions which I have just described were enough in themselves to produce such degradation. It was done systematically. An unrelenting will seemed

to be at work to reduce those men to the same level, the lowest possible level of human degradation.

To begin with, the first degrading factor was the way in which they were mixed. It was permissible to mix nationalities, but not to mix indiscriminately every possible type of prisoner: political, military—for the members of the French resistance movement were soldiers—racial elements, and common-law criminals.

Criminals of all nationalities were herded together with their compatriots, and every nationality lived side by side, so conditions of living were distressing. In addition, there was overcrowding, unsanitary conditions, and compulsory labor. I shall give a few examples to show that prisoners were mixed quite indiscriminately.

In March 1944, I saw the French General Duval die. He had been working on the "terrasse" with me all day. When we came back, he was covered with mud and completely exhausted. He died a few hours later.

The French General Vernaud died on a straw mattress, filthy with excrement, in room Number 6, where those on the verge of death were taken, surrounded by dying men.

I saw M. De Tessan die...

M. DUBOST: Will you explain to the Tribunal who M. De Tessan was?

DUPONT: M. De Tessan was a former French minister, married to an American. He also died on a straw mattress, covered with pus, from a disease known as septicopyohemia.

I also witnessed the death of Count de Lipkowski, who had done brilliant military service in this war. He had been granted the honors of war by the German Army and had, for one thing, been invited to Paris by Rommel, who desired to show the admiration he felt for his military brilliance. He died miserably in the winter of 1944.

One further instance: The Belgian Minister Janson was in the camp living under the conditions which I have already described, and of which you must have already heard very often. He died miserably, a physical and mental wreck. His intellect had gone and he had partially lost his reason.

I cite only extreme cases and especially those of generals, as they were said to be granted special conditions. I saw no sign of that.

The last stage in this process of the degradation of human beings was the setting of internee against internee.

M. DUBOST: Before dealing with this point, will you describe the conditions in which you found your former professor, Léon Kindberg, professor of medicine?

DUPONT: I studied medicine under Professor Maurice Léon Kindberg at the Beaujon Hospital.

M. DUBOST: In Paris?

DUPONT: Yes, in Paris. A very highly cultured and brilliantly intelligent man. In January 1945 I learned that he had just arrived from Monovitz. I found him in Block 58, a block which in normal circumstances would hold 300 men, and into which 1,200 had been crowded—Hungarians, Poles, Russians, Czechs, with a large proportion of Jews in an extraordinary state of misery. I did not recognize Léon Kindberg because there was nothing to distinguish him from the usual type to be found in these blocks. There was no longer any sign of intellect in him and it was hard to find anything of the man that I had formerly known. We managed to get him out of that block but his health was unfortunately too much impaired and he died shortly after his liberation.

M. DUBOST: Can you tell the Tribunal, as far as you know, the "crimes" committed by this man?

DUPONT: After the armistice Léon Kindberg settled in Toulouse to practice the treatment of pulmonary consumption. I know from an absolutely reliable source that he had taken no part whatsoever in activities directed against the German occupation authorities in France. They found out that he was a Jew and as such he was arrested and deported. He drifted into Buchenwald by way of Auschwitz and Monovitz.

M. DUBOST: What crime had General Duval committed that he should be imprisoned along with pimps, moral degenerates, and murderers? What had General Vernaud done?

DUPONT: I know nothing about the activities of General Duval and General Vernaud during the occupation. All I can say is that they were certainly not asocial.

M. DUBOST: What about Count de Lipkowski and M. De Tessan?

DUPONT: Nor has the Count de Lipkowski or M. De Tessan committed any of the faults usually attributed to asocial elements or common-law criminals.

M. DUBOST: You may proceed.

DUPONT: The means used to achieve the final degradation of the internees as a whole was the torture of them by their fellow prisoners. Let me give a particularly brutal instance. In Kommando A. S. 6, which was situated at Mansleben-am-See, 70 kilometers from Buchenwald, there were prisoners of every nationality, including a large portion of Frenchmen. I had two friends there: Antoine d'Aimery, a son of General d'Aimery, and Thibaut, who was studying to become a missionary.

M. DUBOST: Catholic?

DUPONT: Catholic. At Mansleben-am-See hangings took place in public in the hall of a factory connected with the salt mine. The SS were present at these hangings in full dress uniform, wearing their decorations.

The prisoners were forced to be present at these hangings under threats of the most cruel beatings. When they hanged the poor wretches, the prisoners had to give the Hitler salute. Worse still, one prisoner was chosen to pull away the stool on which the victim stood. He could not evade the order, as the consequences to himself would have been too grave. When the execution had been carried out, the prisoners had to file off in front of the victim between two SS men. They were made to touch the body and, gruesome detail, look the dead man in the eyes. I believe that men who had been forced to go through such rites must inevitably lose the sense of their dignity as human beings.

In Buchenwald itself all the executive work was entrusted to the internees, that is, the hangings were carried out by a German prisoner assisted by other prisoners. The camp was policed by prisoners. When someone in the camp was sentenced to death, it was their duty to find him and take him to the place of execution.

Selection for the labor squads, with which we were well acquainted, especially for Dora, Laura, and S III—extermination detachments—was carried out by prisoners, who decided which of us were to go there. In this way the internees were forced down to the worst possible level of degradation, inasmuch as every man was forced to become the executioner of his fellow.

I have already referred to Block 61, where the extermination of the physically unfit and those otherwise unsuited for labor was carried out. These executions were also carried out by prisoners under SS supervision and control. From the point of view of humanity in general, this was perhaps the worst crime of all, for these men who were constrained to torture their fellow-beings have now been restored to life, but profoundly changed. What is to become of them? What are they going to do?

M. DUBOST: Who was responsible for these crimes as far as your personal knowledge goes?

DUPONT: One thing which strikes me as being particularly significant is that the methods which I observed in Buchenwald now appear to have been the same, or almost the same, as those prevailing in all the other camps. The degree of uniformity in the way in which the camps were run is clear evidence of orders from higher quarters. In the case of Buchenwald, in particular, the personnel, no matter how rough it might be, would not have done such things

on their own initiative. Moreover, the camp chief and the SS doctor, himself, always pleaded superior orders, often in a vague manner. The name most frequently invoked was that of Himmler. Other names also were given. The chief medical officer for all the camps, Lolling, was mentioned on numerous occasions in connection with the extermination block, especially by an SS doctor in the camp, named Bender. In regard to the selection of invalids or Jews to be sent to Auschwitz or Bergen-Belsen to be gassed, I heard the name of Pohl mentioned.

M. DUBOST: What were the functions of Pohl?

DUPONT: He was chief of the SS administration in Berlin, Division D 2.

M. DUBOST: Could the German people as a whole have been in ignorance of these atrocities, or were they bound to know of them?

DUPONT: As these camps had been in existence for years, it is impossible for them not to have known. Our transport stopped at Treves on its way in. The prisoners in some vans were completely naked while in others they were clothed. There was a crowd of people around the station and they all saw the transport. Some of them excited the SS men patrolling the platform. But there were other channels through which information could reach the population. To begin with, there were squads working outside the camps. Labor squads went out from Buchenwald to Weimar, Erfurt, and Jena. They left in the morning and came back at night, and during the day they were among the civilian population. In the factories, too, the technical crew were not members of the armed forces. The "Meister" were not SS men. They went home every night after supervising the work of the prisoners all day. Certain factories even employed civilian labor—the Gustloff works in Weimar, for instance. During the work, the internees and civilians were together.

The civil authorities were responsible for victualling the camps and were allowed to enter them, and I have seen civilian trucks coming into the camp.

The railway authorities were necessarily informed on those matters. Numerous trains carried prisoners daily from one camp to another; or from France to Germany; and these trains were driven by railway men. Moreover, there was a regular daily train to Buchenwald as a terminal station. The railway administrative authorities must, therefore, have been well informed.

Orders were also given in the factories, and industrialists could not fail to be informed regarding the personnel they employed in their factories. I may add that visits took place; the German prisoners were sometimes visited. I knew certain German internees, and I know that on the occasion of those visits they talked to their

relatives, which they could hardly do without informing their home circle of what was going on. It would appear that it is impossible to deny that the German people knew of the camps.

M. DUBOST: The Army?

DUPONT: The Army knew of the camps. At least, this is what I could observe. Every week so-called commissions came to Buchenwald, a group of officers who came to visit the camp. There were SS among these officers; but I very often saw members of the Wehrmacht, the Luftwaffe, who came on those visits. Sometimes we were able to identify the personalities who visited the camp, rarely so far as I was concerned. On 22 March 1945 General Mrugowski came to visit the camp. In particular, he spent a long time in Block 61. He was accompanied on this visit by an SS general and the chief medical officer of the camp, Dr. Shiedlauski.

Another point, during the last few months, the Buchenwald guard, plus SS-men . . .

M. DUBOST: Excuse me for interrupting you. Could you tell us about Block 61?

DUPONT: Block 61 was the extermination block for those suffering from cachexy—in other words, those arrived in such a state of exhaustion that they were totally unfit for work.

M. DUBOST: Is it direct testimony you are giving about this visit to Block 61?

DUPONT: This is from my own personal observation.

M. DUBOST: Whom does it concern?

DUPONT: General Mrugowski.

M. DUBOST: In the Army?

DUPONT: A doctor and an SS general whom I cannot identify.

M. DUBOST: Were university circles unaware of the work done in the camps?

DUPONT: At the Pathological Institute in Buchenwald, pathological preparations were made; and naturally some of them were out of the ordinary, since—and I am speaking as a doctor—we encountered cases that can no longer be observed, cases such as have been described in the books of the last century. Some excellent pieces of work were prepared and sent to universities, especially the University of Jena. On the other hand there were also some exhibits which could not properly be described as anatomical. Some prepared tattoo marks were sent to universities.

M. DUBOST: Did you personally see that?

DUPONT: I saw these tattoo marks prepared.

M. DUBOST: Then how did they obtain the anatomic exhibits, how did they get these tattoo marks? They waited for a natural death, of course.

DUPONT: The cases I observed were natural deaths or executions. Before our arrival—and I can name witnesses who can testify to this—they killed a man to get these tattoo marks. It happened, I must emphasize, when I was not at Buchenwald. I am repeating what was told me by witnesses whose names I will give. During the period when the camp was commanded by Koch, people who had particularly artistic tattoo marks were killed. The witness I can refer to is a Luxembourger called Nicolas Simon who lives in Luxembourg. He spent 6 years in Buchenwald in exceptional conditions where he had unprecedented opportunities of observation.

M. DUBOST: But I am told that Koch was sentenced to death and executed because of these excesses.

DUPONT: As far as I know, Koch was mixed up with some sort of swindling affair. He quarrelled with the SS administration. He was undoubtedly arrested and imprisoned.

THE PRESIDENT: We had better have an adjournment now.

[A recess was taken.]

M. DUBOST: We stopped at the end of the Koch story and the witness was telling the Tribunal that Koch had been executed not for the crimes that he had committed with regard to the internees in his charge, but because of the numerous dishonest acts of which he had been guilty during his period of service.

Did I understand the witness' explanation correctly?

DUPONT: I said explicitly that he had been accused of dishonesty. I cannot give precise details of all the charges. I cannot say that he was accused exclusively of dishonest acts by his administration; I know that such charges were made against him, but I have no further information.

M. DUBOST: Have you nothing to add?

DUPONT: I can say that this information came from Dr. Owen, who had been arrested at the same time and released again and who returned to Buchenwald towards the end, that is, early in 1945.

M. DUBOST: What was the nationality of this doctor?

DUPONT: German. He was in detention. He was an SS man and Koch and he were arrested at the same time. Owen was released and came back to Buchenwald restored to his rank and his functions at the beginning of 1945. He was quite willing to talk to the prisoners and the information that I have given comes from him.

M. DUBOST: I have no further questions to ask the witness, Mr. President.

THE PRESIDENT: Does any member of the Defense Counsel wish to ask any questions?

DR. MERKEL: I am the Defense Counsel for the Gestapo.

Witness, you previously stated that the methods of treatment in Buchenwald were not peculiar to the Buchenwald Camp but must be ascribed to a general order. The reasons you gave for this statement were that you had seen those customs and methods in all the other camps too. How am I to understand this expression "in all the other camps"?

DUPONT: I am speaking of concentration camps; to be precise, a certain number of them, Mauthausen, Dachau, Sachsenhausen; labor squads such as Dora, Laura, S III, Mansleben, Ebensee, to mention these only.

DR. MERKEL: Were you yourself in those camps?

DUPONT: I myself went to Buchenwald. I collected exact testimony about the other camps from friends who were there. In any case, the number of friends of mine who died is a sufficiently eloquent proof that extermination was carried out in the same way in all the camps.

HERR BABEL: I should like to know to what block you belonged. Perhaps you can tell the Tribunal—you have already mentioned the point—how the prisoners were distributed? Did they not also bear certain external markings, red patches on the clothing of some and green on that of others?

DUPONT: There were in fact a number of badges, all of which were found in the same Kommandos. To give an example, where I was—in the "terrasse-kommando" known as "Entwässerung" (drainage)—I worked along side of German "common-laws" wearing the green badge. Regarding the nationalities in this Kommando, there were Russians, Czechs, Belgians, and French. Our badges were different; our treatment was identical, and in this particular case we were even commanded by "common-laws."

HERR BABEL: I did not quite hear the beginning of your answer. I asked whether the internees were divided into specific categories identifiable externally by means of stars or some kind of distinguishing mark: green, blue, *et cetera*?

DUPONT: I said that there were various badges in the camp, triangular badges which applied in principle to different categories, but all the men were mixed up together, and subjected to the same treatment.

HERR BABEL: I did not ask you about their treatment, but about the distinctive badges.

DUPONT: For the French it was a badge in the form of a shield.

HERR BABEL: For all the prisoners, not only the French.

DUPONT: I am answering you. In the case of the French, who were those I knew best, the red, political badge was given to everyone without discrimination, including the prisoners brought over from Fort Barraut, who were common-law criminals. I saw the same thing among the Czechs and the Russians. It is true that the use of different badges had been intended, but that was never put into practice in any reasonable way.

To come back to what I have already stated, even if there were different badges, the people were all mixed up together, nevertheless, and subjected exactly to the same treatment and the same conditions.

HERR BABEL: We have already heard several times that prisoners of various nationalities were mixed up together. That is not what I asked you. You were in the camp for a sufficiently long period to be able to answer my question. How were these prisoners divided? As far as I know, they were divided into criminal, political, and other groups, and each group distinguished by a special sign worn on the clothing—green, blue, red, or some other color.

DUPONT: The use of different badges for different categories had been planned. These categories were mixed up together. "Criminals" were side by side with prisoners classed as "political." There were, however, blocks in which one or another of those elements predominated; but they were not divided up into specific groups distinguished by the particular badge they wore.

HERR BABEL: I have been told, for instance, that political prisoners wore blue badges and the criminals wore red ones. We have already had a witness who confirmed this to a certain extent by stating that criminals wore a green badge and asocial offenders a different badge and that the category to which they belonged could be seen at a glance.

DUPONT: It is true that different badges existed. It is true that the use of these badges for different categories was foreseen; but if I am to confine myself to the truth, I must emphasize the fact that the full use was not made of these badges. For the French, in particular, there were only political badges; and this increased the confusion still more since notorious criminals from the ordinary civil prisons were regarded everywhere as political prisoners. The badges were intended to identify the different existing categories, but they were not employed systematically. They were not employed at all for the French prisoners.

HERR BABEL: If I understand you correctly, you say that all French prisoners were classified as political prisoners?

DUPONT: That is correct.

HERR BABEL: Now, among these French prisoners, as you said yourself, is it not true to say that there were not only political prisoners but also a large proportion of criminals?

DUPONT: There were some among . . .

HERR BABEL: At least, I took your previous statement to mean that. You said that quite definitely.

DUPONT: I did say so. I said that there were criminals from special prisons who were not given the green badge with an F, which they should have received, but the political badge.

HERR BABEL: What was your employment in the camp? You are a doctor, are you not?

DUPONT: I arrived in January. For 3 months I was assigned first to the quarry and then to the "terrasse." After that I was assigned to the Revier, that is to say the camp infirmary.

HERR BABEL: What were your duties there?

DUPONT: I was assigned to the ambulance service for internal diseases.

HERR BABEL: Were you able to act on your own initiative? What sort of instructions did you receive regarding the treatment of patients?

DUPONT: We acted under the control of an SS doctor. We had a certain number of beds for certain patients, in the proportion of one bed to 20 patients. We had practically no medical supplies. I worked in the infirmary up to the liberation.

HERR BABEL: Did you receive instructions regarding the treatment of patients? Were you told to look after them properly or were you given instructions to administer treatment which would cause death?

DUPONT: As regards that, I was ordered to select the incurables for extermination. I never carried out this order.

HERR BABEL: Were you told to select them for extermination? I did not quite hear your reply. Will you please repeat it?

DUPONT: I was ordered to select those who were dangerously ill so that they might be sent to Block 61 where they were to be exterminated. That was the only order I received concerning the patients.

HERR BABEL: "Where were they to be exterminated?" I asked if you were told that they were to be selected for extermination.

Were you told—"They will be sent to Block 61?" Were you also told what was to happen to them in Block 61?

DUPONT: Block 61 was in charge of a noncommissioned officer called Wilhelm, who personally supervised the executions; and it was he who ordered what patients should be selected to be sent to that block. I think the situation is sufficiently clear.

HERR BABEL: I beg your pardon. You were given no specific details?

DUPONT: The order to send the incurables . . .

HERR BABEL: Witness, it strikes me that you are not giving a straightforward answer of "yes" or "no," but that you persist in evading the question.

DUPONT: It was said that these patients were to be sent to Block 61. Nothing more was added but every patient sent to Block 61 was executed.

HERR BABEL: That is not first-hand observation. You found out or you heard that those who were sent there did not come back.

DUPONT: That is not correct. I could see for myself, for I was the only doctor who could enter Block 61, which was under the command of an internee called Louis Cunish (or Remisch). I was able to get a few of the patients out; the others died.

HERR BABEL: If such a thing was said to you, why did you not say that you would not do it?

DUPONT: If I understand the question correctly, I am being asked why, when I was told to send the most serious cases . . .

HERR BABEL: When you received instructions to select patients for Block 61 why did you not say, "I know what will happen to those people, and therefore I will not do it."

DUPONT: Because it would have meant death.

HERR BABEL: And what would it have meant if Germans had refused to carry out such an order?

DUPONT: What Germans are you talking about? German internees?

HERR BABEL: A German doctor, if you like, or anyone else employed in the hospital. What would have happened to him if he had received such an order and refused to carry it out?

DUPONT: If an internee refused point-blank to execute such an order, it meant death. In point of fact, we sometimes could evade such orders. I emphasize the fact that I never sent anyone to Block 61.

HERR BABEL: I have one more general question to ask about conditions in the camp. For those who have never seen a camp it is difficult to imagine what conditions were actually like. Perhaps

you could give the Tribunal a short description of how the camp was arranged.

DUPONT: I think I have already spoken at sufficient length on the organization of the camp. I should like to ask the President whether it will serve any useful purpose to return to this subject.

THE PRESIDENT: I believe it is not necessary. *[To Herr Babel]* If you want to put any particular cross-examination to him to show he is not telling the truth, you can, but not to ask him for a general description.

HERR BABEL: The camp consists of an inner site surrounded and secured by barbed wire. The barracks in which the prisoners were housed were inside this camp. How was this inner camp guarded?

THE PRESIDENT: Will you kindly put one question at a time? The question you just put involves three or four different matters.

HERR BABEL: How was the part of the camp in which the living quarters are situated, separated from the rest? What security measures were taken?

DUPONT: The camp was a unified whole, cut off from the rest of the world by an electrified barbed wire network.

HERR BABEL: Where were the guards?

DUPONT: The guards of the camp were in towers situated all around the camp; they were stationed at the gate and they patrolled inside the camp itself.

HERR BABEL: Inside the camp? Inside the barbed wire enclosure?

DUPONT: Obviously, inside the camp and inside the barracks, of course. They had the right to go everywhere.

HERR BABEL: I have been informed that each separate barrack was under the supervision of only one man, a German SS man or a member of some other organization, that there were no other guards, that these guards were not intended to act as guards but only to keep order, and that the so-called Kapos, who were chosen from the ranks of the prisoners, had the same authority as the guards and performed the duties of the guards. It may have been different in Buchenwald. My information comes from Dachau.

DUPONT: I have already answered all these questions in my statement by saying that the camps were run by the SS in a manner which is common knowledge and that in addition the SS employed the internees as intermediaries in many instances. This was the case in Buchenwald and, I suppose, in all the other concentration camps.

HERR BABEL: The answer to the question has again been highly evasive. I shall not, however, pursue the matter any further, as in any case I shall not receive a definite answer.

But I should like to put one further question: You stated in connection with the facts you described that a professor, whose name I could not understand through the earphones and who was, I believe, a professor of your own, was housed in Block 58. You stated in connection with the question of degradation that at first 300 people, I think, were housed there and later on 1,200. Is that correct?

DUPONT: There were 1,200 men in Block 58 when I found Dr. Kindberg there.

HERR BABEL: Yes. And if I understood you correctly, you said that in this block there were not only Frenchmen, but also Russians, Poles, Czechs, and Jews and that a state of degradation was caused not only through the herding together of 1,200 people but also through the intermingling of so many different nationalities.

DUPONT: I want to make it clear that the intermingling of elements speaking a different language, men who are unable to understand each other, is not a crime; but it was a pre-disposing factor which furthered all the other measures employed to bring about a state of human degradation among the prisoners.

HERR BABEL: So you consider that the intermingling of Frenchmen, Russians, Poles, Czechs, and Jews is a degradation?

DUPONT: I do not see the point of this question. The fact of intermingling . . .

HERR BABEL: There is no need for you to see the point; I know why I am asking the question.

DUPONT: The fact of putting men who speak different languages together is not degrading. I did not either think or say such a thing; but the herding together of elements which differ from each other in every respect and especially in that of language, in itself made living conditions more difficult, and paved the way for the application of other measures which I have already described at length and whose final aim was the degradation of the human being.

HERR BABEL: I cannot understand why the necessity of associating with people whose language one does not understand should be degrading.

THE PRESIDENT: Dr. Babel, he has given his answer, that he considers it tended to degradation. It does not matter whether you understand it or not.

HERR BABEL: Mr. President, the transmission through the earphones is sometimes so imperfect that I, at least, often cannot

hear exactly what the witness says and for that reason I have unfortunately been compelled to have an answer repeated from time to time.

M. DUBOST: I should not like the Tribunal to mistake this interpolation for an interruption of the cross-examination; but I think I must say that some confusion was undoubtedly created in the mind of the Defense Counsel just now in consequence of an interpreter's error which has been brought to my notice.

He asked my witness an insidious question, namely, whether the French deportees were criminals for the most part, and the question was interpreted as follows: whether the French deportees were criminals. The witness answered the question as translated into French and not as asked in German. I therefore request that the question be put once more by the Defense Counsel and correctly translated.

THE PRESIDENT: Do you understand what Mr. Dubost said, Dr. Babel?

HERR BABEL: I think I understand the substance. I think I understand that there was a mistake in the translation. I am not in a position to judge; I cannot follow both the French and German text.

THE PRESIDENT: I think the best course is to continue your cross-examination, if you have any more questions to ask, and Mr. Dubost can clear up the difficulty in re-examination.

HERR BABEL: Mr. President, the Defense Counsel for Kaltenbrunner has already explained today that it is very difficult for the Defense to cross-examine a witness without being informed at least one day before as to the subjects on which the witness is to be heard. The testimony given by today's witnesses was so voluminous that it is impossible for me to follow it without previous preparation and to prepare and conduct from brief notes the extensive cross-examinations which are necessary.

To my knowledge, the President has already informed Defense Counsel for the organizations that we shall have an opportunity of re-examining the witnesses later or of calling them on our own behalf.

THE PRESIDENT: I have already said what I have to say on behalf of the Tribunal on that point, but as Counsel for the Defense must have anticipated that witnesses would be called as to the conditions in the concentration camps, I should have thought they could have prepared their cross-examination during the 40 or more days during which the Trial has taken place.

HERR BABEL: Mr. President, I do not think that this is the proper time for me to argue the matter with the Tribunal, but I

may perhaps be given the opportunity of doing so later in a closed session. I consider this necessary in the interests of the rapid and unhampered progress of the Trial.

I have no desire whatsoever to delay the proceedings. I have the greatest interest in expediting them as far as possible, but I am anxious not to do so at the cost of prejudicing the defense of the organizations.

THE PRESIDENT: Dr. Babel, I have already pointed out to you that you must have anticipated that the witnesses might be called to state the conditions in concentration camps. You must therefore have had full opportunity during the days the Trial has taken place for making up your mind on what points you would cross-examine, and I see no reason to discuss the matter with you.

HERR BABEL: Thank you for this information. But naturally I cannot know in advance exactly what the witness is going to say, and I cannot cross-examine him until I have heard him. I know, of course, that a witness is going to make a statement about concentration camps but I cannot know in advance which particular points he will discuss.

M. DUBOST: I would ask the Tribunal to note that in questioning the French witness the Defense used certain words the literal translation of which is "for the most part." This applied to the character of the French deportees. The question was, "Were they criminals for the most part?" The witness understood it to be as I did: "Did you say that they were criminals?" and not "that the convoys were for the most part composed of criminals." His reply was the natural one. The Tribunal will allow me to ask the witness to give details. What was the proportion of common-law criminals and patriots respectively among the deportees? Was he himself a common-law criminal or a patriot? Were the generals and other personalities whose names he has given us common-law criminals or patriots, speaking generally?

DUPONT: The proportion of French common-law criminals was very small. The common-law criminals came from Fort Barraut in a convoy. I cannot give the exact figures, but there were only a few hundred out of all the internees. In other incoming convoys the proportion of common-law criminals included was only 2 or 3 per thousand.

M. DUBOST: Thank you.

THE PRESIDENT: The witness can retire.

[The witness left the stand.]

THE PRESIDENT: M. Dubost, are you proposing or asking to call other witnesses upon concentration camps? Because, as I have already pointed out to you, the evidence, with the exception of

Dr. Babel's recent cross-examination, has practically not been cross-examined; and it is supported by other film evidence. We are instructed by Article 18 of the Charter to conduct the Trial in as expeditious a way as possible; and I will point out to you, as ordered under 24e of the Charter, you have the opportunity of calling rebutting evidence, if it were necessary and, therefore, if the evidence which has been so fully gone into as to the condition in concentration camps...

M. DUBOST: The witness whom I propose to ask the Tribunal to hear will elucidate a point which has been pending for several weeks. The Tribunal will remember that when my American colleagues were presenting their evidence, the question of ascertaining whether Kaltenbrunner had been in Mauthausen arose. In evidence of this, I am going to call M. Boix, who will prove to the Tribunal that Kaltenbrunner had been in Mauthausen. He has photographs of that visit and the Tribunal will see them, as the witness brought them with him.

THE PRESIDENT: Very well.

[The witness, Boix, took the stand.]

THE PRESIDENT: What is your name?

M. FRANÇOIS BOIX (Witness): François Boix.

THE PRESIDENT: Are you French?

BOIX: I am a Spanish refugee.

THE PRESIDENT: Will you repeat this oath after me. I swear to speak without hate or fear, to say the truth, all the truth, only the truth.

[The witness repeated the oath in French.]

THE PRESIDENT: Raise your right hand and say, "I swear."

BOIX: I swear.

THE PRESIDENT: You may sit down.

M. Dubost, will you spell the name.

M. DUBOST: B—O—I—X. *[Turning to the witness.]* You were born on 14 August 1920 in Barcelona?

BOIX: Yes.

M. DUBOST: You are a news photographer, and you were interned in the camp of Mauthausen, since...

BOIX: Since 27 January 1941.

M. DUBOST: You handed over to the commission of inquiry a certain number of photographs?

BOIX: Yes.

M. DUBOST: They are going to be projected on the screen and you will state under oath under what circumstances and where these pictures were taken?

BOIX: Yes.

M. DUBOST: How did you obtain these pictures?

BOIX: Owing to my professional knowledge, I was sent to Mauthausen to work in the identification branch of the camp. There was a photographic branch, and pictures of everything happening in the camp could be taken and sent to the High Command in Berlin.

[Pictures were then projected on the screen.]

M. DUBOST: This is the general view of the quarry. Is this where the internees worked?

BOIX: Most of them.

M. DUBOST: Where is the stairway?

BOIX: In the rear.

M. DUBOST: How many steps were there?

BOIX: 160 steps at first; later on there were 186.

M. DUBOST: We can proceed to the next picture.

BOIX: This was taken in the quarry during a visit from Reichsführer Himmler, Kaltenbrunner, the Governor of Linz, and some other leaders whose names I do not know. What you see below is the dead body of a man who had fallen from the top of the quarry (70 meters), as happened every day.

M. DUBOST: We can proceed to the next picture.

BOIX: This was taken in April 1941. My Spanish comrades who had sought refuge in France are pulling a wagon loaded with earth. That was the work we had to do.

M. DUBOST: By whom was this picture taken?

BOIX: At that time by Paul Ricken, a professor from Essen.

M. DUBOST: We may proceed to the next one.

BOIX: This staged the scene of an Austrian who had escaped. He was a carpenter in the garage and he managed to make a box, a box in which he could hide and so get out of the camp. But after a while he was recaptured. They put him on the wheelbarrow in which corpses were carried to the crematorium. There were some placards saying in German, "Alle Vögel sind schon da," meaning "All the birds are back again." He was sentenced and then paraded in front of 10,000 deportees to the music of a gypsy band playing a song "J'attendrai." When he was hanged, his body swung to and fro in the wind while they played the very well known song, "Bill Black Polka."

M. DUBOST: The next one.

BOIX: This is the scene; in this picture we see on the right and left all the deportees in a row; on the left are the Spaniards, they are smaller. The man in the front with the beret is a criminal from Berlin by the name of Schultz, who was employed on these occasions. In the background you can see the man who is about to be hanged.

M. DUBOST: Next one. Who took these pictures?

BOIX: By the SS Oberscharführer Fritz Kornatz. He was killed by American troops in Holland in 1944. This man, a Russian prisoner of war, got a bullet in the head. They hanged him to make us think he was a suicide and had tried to hurl himself against the barbed wire.

The other picture shows some Dutch Jews. That was taken at Barracks C, the so-called quarantine barracks. The Jews were driven to hurl themselves against the barbed wire on the very day of their arrival because they realized that there was no hope to escape for them.

M. DUBOST: By whom were these pictures taken?

BOIX: At this time by the SS Oberscharführer Paul Ricken, a professor from Essen.

M. DUBOST: Next one.

BOIX: These are 2 Dutch Jews. You can see the red star they wore. That was an alleged attempt to escape (Fluchtversuch).

M. DUBOST: What was it in reality?

BOIX: The SS sent them to pick up stones near the barbed wires, and the SS guards at the second barbed wire fence fired on them, because they received a reward for every man they shot down.

The other picture shows a Jew in 1941 during the construction of the so-called Russian camp, which later became the sanitary camp, hanged with the cord which he used to keep up his trousers.

M. DUBOST: Was it suicide?

BOIX: It was alleged to be. It was a man who no longer had any hope of escape. He was driven to desperation by forced labor and torture.

M. DUBOST: What is this picture?

BOIX: A Jew whose nationality I do not know. He was put in a barrel of water until he could not stand it any longer. He was beaten to the point of death and then given 10 minutes in which to hang himself. He used his own belt to do it, for he knew what would happen to him otherwise.

M. DUBOST: Who took that picture?

BOIX: The SS Oberscharführer Paul Ricken.

M. DUBOST: And what is this picture?

BOIX: Here you see the Viennese police visiting the quarry. This was in June or July 1941. The two deportees whom you see here are two of my Spanish comrades.

M. DUBOST: What are they doing?

BOIX: They are showing the police how they had to raise the stones, because there were no other appliances for doing so.

M. DUBOST: Did you know any of the policemen who came?

BOIX: No, because they came only once. We had just time to have a look at them.

The date of this picture is September 1943, on the birthday of Obersturmbannführer Franz Ziereis. He is surrounded by the whole staff of Mauthausen Camp. I can give you the names of all the people in the picture.

M. DUBOST: Pass the next photo.

BOIX: This is a picture taken on the same day as Obersturmbannführer Franz Ziereis's birthday. The other man was his adjutant. I forgot his name. It must be remembered that this adjutant was a member of the Wehrmacht and put on an SS uniform as soon as he came to the camp.

M. DUBOST: Who is that?

BOIX: That is the same visit to Mauthausen by police officials in June or July 1941. This is the kitchen door. The prisoners standing there had been sent to the disciplinary company. They used that little appliance on their backs for carrying stones up to a weight of 80 kilos, until they were exhausted. Very few men ever came back from the disciplinary company.

This picture shows Himmler's visit to the Führerheim at Camp Mauthausen in April 1941. It shows Himmler with the Governor of Linz in the background and Obersturmbannführer Ziereis, the commanding officer of Camp Mauthausen, on his left.

This picture was taken in the quarry. In the rear, to the left, you see a group of deportees at work. In the foreground are Franz Ziereis, Himmler, and Obergruppenführer Kaltenbrunner. He is wearing the gold Party emblem.

M. DUBOST: This picture was taken in the quarry? By whom?

BOIX: By the SS Oberscharführer Paul Ricken. This was between April and May 1941. This gentleman frequently visited the camp at that period to see how similar camps could be organized throughout Germany and in the occupied countries.

M. DUBOST: I have finished. You give us your assurance that it is really Kaltenbrunner.

BOIX: I give you my assurance.

M. DUBOST: And that this picture was taken in the camp?

BOIX: I give you my assurance.

M. DUBOST: Were you taken to Mauthausen as a prisoner of war or as a political prisoner?

BOIX: As a prisoner of war.

M. DUBOST: You had fought as a volunteer in the French Army?

BOIX: Either in infantry battalions or in the Foreign Legion, or in the pioneer regiments attached to the Army to which I belonged. I was in the Vosges with the 5th Army. We were taken prisoners. We retreated as far as Belfort where I was taken prisoner in the night of 20-21 June 1940. I was put with some fellow Spaniards and transferred to Mulhouse. Knowing us to be former Spanish Republicans and anti-fascists, they put us in among the Jews as members of a lower order of humanity (Untermensch). We were prisoners of war for 6 months and then we learned that the Minister for Foreign Affairs had had an interview with Hitler to discuss the question of foreigners and other matters. We knew that our status had been among the questions raised. We heard that the Germans had asked what was to be done with Spanish prisoners of war who had served in the French Army, those of them who were Republicans and ex-members of the Republican Army. The answer . . .

M. DUBOST: Never mind that. So although you were a prisoner of war you were sent to a camp not under Army control?

BOIX: Exactly. We were prisoners of war. We were told that we were being transferred to a subordinate Kommando, like all the other Frenchmen. Then we were transferred to Mauthausen where, for the first time, we saw that there were no Wehrmacht soldiers and we realized that we were in an extermination camp.

M. DUBOST: How many of you arrived there?

BOIX: At the end we were 1,500; altogether 8,000 Spaniards at the time of our arrival.

M. DUBOST: How many of you were liberated?

BOIX: Approximately 1,600.

M. DUBOST: I have no more questions to ask.

THE PRESIDENT: Do you want to ask any questions?

GEN. RUDENKO: I shall have some questions. If the President will permit me I shall present them in tomorrow's session.

THE PRESIDENT: We will adjourn now.

[The Tribunal adjourned until 29 January 1946 at 1000 hours.]

FORTY-FIFTH DAY

Tuesday, 29 January 1946

Morning Session

MARSHAL: May it please the Court, I desire now to say that the Defendant Kaltenbrunner will be absent from this morning's session on account of illness.

M. DUBOST: In my capacity as representative of the French Prosecution, I wish to ask the Tribunal to consider this request. The witnesses that were interrogated yesterday are to be cross-examined by the Defense. The conditions under which they are here are rather precarious, for it takes 30 hours to return to Paris. We would like to know whether we are to keep them here; and, if the Defense really intends to cross-examine them, we should like to proceed with that as quickly as possible in order to ensure their return to France.

THE PRESIDENT: In view of what you said yesterday, M. Dubost, I said on behalf of the Tribunal that Herr Babel might have the opportunity of cross-examining one of your witnesses within the next two days. Is Herr Babel ready to cross-examine that witness now?

HERR BABEL: No, Mr. President, I have not yet received a copy of his interrogation and consequently have not been able to prepare my cross-examination. The time from yesterday to today is, naturally, also too short. Therefore, I cannot yet make a definite statement whether or not I shall want to cross-examine the witness. If I were given an opportunity during the course of the day to get the Record. . . .

THE PRESIDENT: *[Interposing]* Well, that witness must stay until tomorrow afternoon, M. Dubost, but the other witnesses can go. M. Dubost, will you see, if you can, that a copy of the shorthand notes is furnished to Herr Babel as soon as possible?

M. DUBOST: Yes, Mr. President.

[The witness, Boix, took the stand.]

I shall have it done, My Lord. We continue. The Tribunal will remember that yesterday afternoon we projected six photographs of Mauthausen which were brought to us by the witness who is now before you and on which he offered his comments. This witness

specifically stated under what conditions the photograph representing Kaltenbrunner in the quarry of Mauthausen had been taken. We offer these photographs as a French document, Exhibit Number RF-332.

Will you allow me to formulate one more question to the witness? Then I shall be through with him, at least concerning the important part of this testimony.

Witness, do you recognize among the defendants anyone who visited the camp of Mauthausen during your internment there?

BOIX: Speer.

M. DUBOST: When did you see him?

BOIX: He came to the Gusen Camp in 1943 to arrange for some constructions and also to the quarry at Mauthausen. I did not see him myself as I was in the identification service of the camp and could not leave, but during these visits Paul Ricken, head of the identification department, took a roll of film with his Leica which I developed. On this film I recognized Speer and some leaders of the SS as well, who came with him. Speer wore a light-colored suit.

M. DUBOST: You saw that on the pictures that you developed?

BOIX: Yes. I recognized him on the photos and afterward we had to write his name and the date because many SS always wanted to have collections of all the photos of visits to the camp.

I recognized Speer on 36 photographs which were taken by SS Oberscharführer Paul Ricken in 1943, during Speer's visit to the Gusen Camp and the quarry of Mauthausen. He always looked extremely pleased in these pictures. There are even pictures which show him congratulating Obersturmbannführer Franz Ziereis, then commander of the Mauthausen Camp, with a cordial handshake.

M. DUBOST: One last question. Were there any officiating chaplains in your camp? How did the internees who wanted religious consolation die?

BOIX: Yes, from what I could observe, there were several. There was an order of German Catholics, known as "Bibelforscher," but officially . . .

M. DUBOST: But officially did the administration of the camp grant the internees the right to practice their religion?

BOIX: No, they could do nothing, they were absolutely forbidden even to live.

M. DUBOST: Even to live?

BOIX: Even to live.

M. DUBOST: Were there any Catholic chaplains or any Protestant pastors?

BOIX: That sort of Bibelforscher were almost all Protestants. I do not know much about this matter.

M. DUBOST: How were monks, priests, and pastors treated?

BOIX: There was no difference between them and ourselves. They died in the same way we did. Sometimes they were sent to the gas chamber, at times they were shot, or plunged in freezing water; any way was good enough. The SS had a particularly harsh method of handling these people, because they knew that they were not able to work as normal laborers. They treated all intellectuals of all countries in this manner.

M. DUBOST: They were not allowed to exercise their functions?

BOIX: No, not at all.

M. DUBOST: Did the men who died have a chaplain before being executed?

BOIX: No, not at all. On the contrary, at times, instead of being consoled, as you say, by anyone of their faith, they received, just before being shot, 25 or 75 lashes with a leather thong even from an SS Obersturmbannführer personally. I noticed especially the cases of a few officers, political commissars, and Russian prisoners of war.

M. DUBOST: I have no further questions to ask of the witness.

THE PRESIDENT: General Rudenko?

GEN. RUDENKO: Witness, please tell us what you know about the extermination of Soviet prisoners.

BOIX: I cannot possibly tell you all I know about it; I know so much that one month would not suffice to tell you all about it.

GEN. RUDENKO: Then I would like to ask you, Witness, to tell us concisely what you know about the extermination of Soviet prisoners in the camp of Mauthausen.

BOIX: The arrival of the first prisoners of war took place in 1941. The arrival of 2,000 Russian prisoners of war was announced. With regard to Russian prisoners of war, they took the same precautions as in the case of the Republican Spanish prisoners of war. They put machine guns everywhere around the barracks and expected the worst. As soon as the Russian prisoners of war entered the camp one could see that they were in a very bad state, they could not even understand anything. They were human scarecrows. They were then put in barracks, 1,600 to a barracks. You must bear in mind these barracks were 7 meters wide by 50 long. They were divested of their clothes, of the very little they had with them; they could keep only one pair of drawers and one shirt. One has

to remember that this was in November and in Mauthausen it was more than 10 degrees (centigrade) below zero.

Upon their arrival there were already 20 deaths, from walking only the distance of 4 kilometers between the station and camp of Mauthausen. At first the same system was applied to them as to us Republican Spanish prisoners. They left us with nothing to do, with no work.

They were left to themselves, but with scarcely anything to eat. At the end of a few weeks they were already at the end of their endurance. Then began the process of elimination. They were made to work under the most horrible conditions, they were beaten, hit, kicked, insulted; and out of the 7,000 Russian prisoners of war who came from almost everywhere, only 30 survivors were left at the end of three months. Of these 30 survivors photographs were taken by Paul Ricken's department as a document. I have these pictures and I can show them if the Tribunal so wishes.

GEN. RUDENKO: You do have these pictures?

BOIX: M. Dubost knows about that, yes. M. Dubost has them.

GEN. RUDENKO: Thank you. Can you show these pictures?

BOIX: M. Dubost has them.

GEN. RUDENKO: Thank you. What do you know about the Yugoslavs and the Poles?

BOIX: The first Poles came to the camp in 1939 at the moment of the defeat of Poland. They received the same treatment as everybody else did. At that time there were only ordinary German bandits there. Then the work of extermination was begun. There were tens of thousands of Poles who died under frightful conditions.

The position of the Yugoslavs should be emphasized. The Yugoslavs began to arrive in convoys, wearing civilian clothes; and they were shot in a legal way, so to speak. The SS wore even their steel helmets for these executions. They shot them two at a time. The first transport brought 165, the second 180, and after that they came in small groups of 15, 50, 60, 30; and even women came then.

It should be noted that once, among four women who were shot—and that was the only time in the camp of deportees—some of them spat in the face of the camp Führer before dying. The Yugoslavs suffered as few people have suffered. Their position is comparable only to that of the Russians. Until the very end they were massacred by every means imaginable. I would like to say more about the Russians, because they have gone through so much . . .

GEN. RUDENKO: Do I understand correctly from your testimony that the concentration camp was really an extermination camp?

BOIX: The camp was placed in the last category, category 3; that is, it was a camp from which no one could come out.

GEN. RUDENKO: I have no further questions.

THE PRESIDENT: Does Counsel for Great Britain desire to cross-examine?

COLONEL H. J. PHILLIMORE (Junior Counsel for United Kingdom): No questions.

THE PRESIDENT: Counsel for the United States?

MR. THOMAS J. DODD (Executive Trial Counsel for the United States): No questions.

THE PRESIDENT: Do any counsel for the defendants wish to cross-examine?

HERR BABEL: Witness, how were you marked in the camp?

BOIX: The number? What kind of brand?

HERR BABEL: The prisoners were marked by variously colored stars, red, green, yellow, and so forth. Was this so in Mauthausen also? What did you wear?

BOIX: Everybody wore insignia. They were not stars; they were triangles and letters to show the nationality. Yellow and red stars were for the Jews, stars with six red and yellow points, two triangles, one over the other.

HERR BABEL: What color did you wear?

BOIX: A blue triangle with an "S" in it, that is to say "Spanish political refugee."

HERR BABEL: Were you a Kapo?

BOIX: No, I was an interpreter at first.

HERR BABEL: What were your tasks and duties there?

BOIX: I had to translate into Spanish all the barbaric things the Germans wished to tell the Spanish prisoners. Afterwards my work was with photography, developing the films which were taken all over the camp showing the full story of what happened in the camp.

HERR BABEL: What was the policy with regard to visitors? Did visitors go only into the inner camp or to places where work was being done?

BOIX: They visited all the camps. It was impossible for them not to know what was going on. Exception was made only when high officials or other important persons from Poland, Austria, or Slovakia, from all these countries, would come. Then they would show them only the best parts. Franz Ziereis would say, "See for yourselves." He searched out cooks, interned bandits, fat and

well-fed criminals. He would select these so as to be able to say that all internees looked like these.

HERR BABEL: Were the prisoners forbidden to communicate with each other concerning conditions in the camp? Communication with the outside was, of course, scarcely possible.

BOIX: It was so completely forbidden that, if anyone was caught at it, it meant not only his death but for all those of his nationality terrible reprisals.

HERR BABEL: What observations can you make regarding the Kapos? How did they behave toward your fellow internees?

BOIX: At times they were really worthy of being SS themselves. To be a Kapo, one had to be Aryan, pure Aryan. That means that they had a martial bearing and, like the SS, full rights over us; they had the right to treat us like beasts. The SS gave them *carte blanche* to do with us what they wished. That is why, at the liberation, the prisoners and deportees executed all the Kapos on whom they could lay their hands.

Shortly before the liberation the Kapos asked to enlist voluntarily in the SS and they left with the SS because they knew what was awaiting them. In spite of that we looked for them everywhere and executed them on the spot.

HERR BABEL: You said "they had to treat .you like wild beasts." From what facts do you draw the conclusion that they were obliged to?

BOIX: One would have to be blind in order not to see. One could see the way they behaved. It was better to die like a man than to live like a beast; but they preferred to live like beasts, like savages, like criminals. They were known as such. I lived there four and a half years and I know very well what they did. There were many among us who could have become Kapos for their work, because they were specialists in some field or another in the camp. But they preferred to be beaten and massacred, if necessary, rather than become a Kapo.

HERR BABEL: Thank you.

THE PRESIDENT: Does any other member of the defendants' counsel wish to ask questions of the witness? M. Dubost, do you wish to ask any questions?

M. DUBOST: I have no further questions, Mr. President.

THE PRESIDENT: Very well.

GEN. RUDENKO: My Lord, the witness informed us that he had at his disposal the photographic documents of 30 Soviet prisoners of war, the sole survivors of several thousand internees in this camp. I would like to ask your permission, Mr. President,

to present this photographic document to the witness so that he can confirm before the Tribunal that it is really this group of Soviet prisoners of war.

THE PRESIDENT: Certainly you may show the photograph to the witness if it is available.

GEN. RUDENKO: Yes. Witness, can you show this picture?

[The witness presented the picture to the Tribunal.]

THE PRESIDENT: Is this the photograph?

BOIX: Yes, I can assure you that these 30 survivors were still living in 1942. Since then, in view of the conditions of the camp, it is very difficult to know whether some of them are still alive.

THE PRESIDENT: Would you please give the date when this photograph was taken?

BOIX: It was at the end of the winter of 1941-42. At that time, it was still 10 degrees (centigrade) below zero. You can see from the picture the appearance of the prisoners because of the cold.

THE PRESIDENT: Has this book been put in evidence yet?

M. DUBOST: This book has been submitted as evidence, Your Honor, as official evidence.

THE PRESIDENT: Have the defendants got copies of it?

M. DUBOST: It was submitted as Exhibit Number RF-331 (Document F-321). The Defense have also received a copy of this book in German, but the pictures are not in the German version, Your Honor.

THE PRESIDENT: Well then, let this photograph be marked. It had better be marked with a French exhibit number, I think. What will it be?

M. DUBOST: We shall give it Exhibit Number RF-333.

THE PRESIDENT: Let it be marked in that way, and then hand it to Herr Babel.

GEN. RUDENKO: Thank you, Sir. I have no more questions.

THE PRESIDENT: Will you hand the photo to Dr. Babel.

[The photo was handed to Herr Babel.]

I think it should be handed about to the other defendants' counsel in case they wish to ask any question about it. M. Dubost, I think that an approved copy of this book, including the photographs, has been deposited in the defendants' Information Center.

M. DUBOST: The whole book, except for the pictures.

THE PRESIDENT: Why not the pictures?

M. DUBOST: At that moment we did not have them to submit. In our exposé we have not mentioned the photographs.

THE PRESIDENT: The German counsel ought to have the same documents as are submitted to the Tribunal. The photographs have been submitted to the Tribunal; therefore they should have been deposited in the Information Center.

M. DUBOST: Mr. President, the French text, including the pictures, was deposited in the Defense Information Center; and, in addition, a certain number of texts in German, to which the pictures were not added because we had that translation prepared for the use of the Defense. But there are French copies of the book that you have before you which include the pictures.

THE PRESIDENT: Very well.

M. DUBOST: We have here four copies of the picture which was shown yesterday afternoon, which we shall place before you. It shows Kaltenbrunner and Himmler in the quarry of Mauthausen, in accordance with the testimony given by Boix. One of these pictures will also be delivered to the Defense, that is, to the lawyer of the Defendant Kaltenbrunner.

THE PRESIDENT: Now the photograph has been handed around to the defendants' counsel. Do any members of the defendants' counsel wish to ask any questions of the witness about this photograph? No question? The witness can retire.

BOIX: I would like to say something more. I would like to note that there were cases when Soviet officers were massacred. It is worth noting because it concerns prisoners of war. I would like the Tribunal to listen to me carefully.

THE PRESIDENT: What is it you wish to say about the massacre of the Soviet prisoners of war?

BOIX: In 1943 there was a transport of officers. On the very day of their arrival in the camp they began to be massacred by every means. But it seems that from the higher quarters orders had come concerning these officers saying that something extraordinary had to be done. So they put them in the best block in the camp. They gave them new prisoner's clothing. They gave them even cigarettes; they gave them beds with sheets; they were given everything they wanted to eat. A medical officer, Sturmbannführer Bresbach, examined them with a stethoscope.

They went down into the quarry, but they carried only small stones, and in fours. At that time Oberscharführer Paul Ricken, chief of the service, was there with his Leica taking pictures without stopping. He took about 48 pictures. These I developed and five copies of each, 13 by 18, with the negatives, were sent to Berlin. It is too bad I did not steal the negatives, as I did the others.

When that was done, the Russians were made to give up their clothing and everything else and were sent to the gas chamber. The comedy was ended. Everybody could see on the pictures that the Russian prisoners of war, the officers, and especially the political commissars, were treated well, worked hardly at all, and were in good condition. That is one thing that should be noted because I think it is necessary.

And another thing, there was a barrack called Barrack Number 20. That barrack was inside the camp; and in spite of the electrified barbed wire around the camp, there was an additional wall with electrified barbed wire around it. In that barrack there were prisoners of war, Russian officers and commissars, some Slavs, a few Frenchmen, and, they said, even a few Englishmen. No one could enter that barrack except the two Führer who were in the camp prison, the commanding officers of the inner and outer camps. These internees were dressed just as we were, like convicts, but without number or identification of their nationality. One could not tell their nationality.

The service "Erkennungsdienst" must have taken their pictures. A tag with a number was placed on their chest. This number began with 3,000 and something. There were numbers looking like Number 11 (two blue darts), and the numbers started at 3,000 and went up to 7,000. SS Unterscharführer Hermann Schinlauer was the photographer then in charge. He was from the Berlin region, somewhere outside of Berlin, I do not remember the name. He had orders to develop the films and to do all work personally; but like all the SS of the interior services of the camp, they were men who knew nothing. They always needed prisoners to get their work done. That is why he needed me to develop these films. I made the enlargements, 5 by 7. These were sent to Obersturmführer Karl Schulz, of Cologne, the Chief of the Politische Abteilung. He told me not to tell anything to anybody about these pictures and about the fact that we developed these films; if we did we would be liquidated at once. Without any fear of the consequences I told all my comrades about it, so that, if one of us should succeed in getting out, he could tell the world about it.

THE PRESIDENT: I think we have heard enough of this detail that you are giving us. But come back for a moment to the case you were speaking of. I wish you would repeat the case of the Russian prisoners of war in 1943. You said that the officers were taken to the quarry to carry the heaviest stones.

BOIX: No, just very small stones, weighing not even 20 kilos, and they carried them in fours to show on the pictures that the Russian officers did not do heavy work but on the contrary, light

work. That was only for the pictures, whereas in reality it was entirely different.

THE PRESIDENT: I thought you said they carried big, heavy stones.

BOIX: No.

THE PRESIDENT: Were the photographs taken while they were in their uniforms carrying these light stones?

BOIX: Yes, Sir; they had to put on clean uniforms, neatly arranged, to show that the Russian prisoners were well and properly treated.

THE PRESIDENT: Very well. Is there any other particular incident you want to refer to?

BOIX: Yes, about Block 20. Thanks to my knowledge of photography I was able to see it; I had to be there to handle the lights while my chief took photographs. In this way I could follow, detail by detail, everything that took place in this barrack. It was an inner camp. This barrack, like all the others, was 7 meters wide and 50 meters long. There were 1,800 internees there, with a food ration less than one-quarter of what we would get for food. They had neither spoons nor plates. Large kettles of spoiled food were emptied on the snow and left there until it began to freeze; then the Russians were ordered to get at it. The Russians were so hungry, they would fight for this food. The SS used these fights as a pretext to beat some of them with bludgeons.

THE PRESIDENT: Do you mean that the Russians were put directly into Block 20?

BOIX: The Russians did not come to the camp directly. Those who were not sent to the gas chamber right away were placed in Block 20. Nobody of the inner camp, not even the Blockführer, was allowed to enter this barrack. Small convoys of 50 or 60 came several times a week and always one heard the noise of a fight going on inside.

In January 1945, when the Russians learned that the Soviet Armies were approaching Yugoslavia, they took one last chance. They seized fire extinguishers and killed soldiers posted under the watch tower. They seized machine guns and everything possible as weapons. They took blankets with them and everything they could find. They were 700, but only 62 succeeded in passing into Yugoslavia with the partisans.

That day, Franz Ziereis, camp commander, issued an order by radio to all civilians to co-operate, to "liquidate" the Russian criminals who had escaped from the concentration camp. He stated that everyone who could produce evidence that he had killed one

of these men would receive an extraordinary sum of marks. This was why all the Nazi followers in Mauthausen went to work and succeeded in killing more than 600 escaped prisoners. It was not hard because some of the Russians could not drag themselves for more than 10 meters.

After the liberation one of the surviving Russians came to Mauthausen to see how everything was then. He told us all the details of his painful march.

THE PRESIDENT: I don't think the Tribunal wants to hear more details which you did not see yourself. Does any member of the Defense Counsel wish to ask any question of the witness upon the points which he has dealt with himself.

HERR BABEL: One question only. In the course of your testimony you gave certain figures, namely 165, then 180, and just now 700. Were you in a position to count them yourself?

BOIX: Nearly always the convoys came into the camp in columns of five. It was easy to count them. These transports were always sent from the Wehrmacht, from the Wehrmacht prisons somewhere in Germany. They were sent from all prisons in Germany, from the Wehrmacht, the Luftwaffe, the SD, or the SS.

THE PRESIDENT: Just answer the question and do not make a speech. You have said they were brought in in columns of five and it was easy to count them.

BOIX: Very easy to count them, particularly for those who wanted to be able to tell the story some day.

HERR BABEL: Did you have so much time that you were able to observe all these things?

BOIX: The transports always came in the evening after the deportees had returned to the camp. At this time we always had two or three hours when we could wander about in the camp waiting for the bell that was the signal for us to go to bed.

THE PRESIDENT: The witness may now retire.

[The witness left the stand.]

M. DUBOST: If the Tribunal permits, we shall now hear Mr. Cappelen, who is a Norwegian witness. The testimony of Mr. Cappelen will be limited to the conditions that were imposed on Norwegian internees in Norwegian camps and prisons.

THE PRESIDENT: Very well.

[The witness, Hans Cappelen, took the stand.]

THE PRESIDENT: I understand that you speak English.

M. HANS CAPPELEN (Witness): Yes, I speak English.

THE PRESIDENT: Will you take the English form of oath?

CAPPELEN: Yes, I prefer to speak in English.

THE PRESIDENT: What is your name?

CAPPELEN: My name is Hans Cappelen.

THE PRESIDENT: Will you repeat this oath after me:

I swear that the evidence I shall give shall be the truth, the whole truth, and nothing but the truth, so help me God.

[The witness repeated the oath in English.]

THE PRESIDENT: *[To the witness.]* Raise your right hand and say "I swear."

CAPPELEN: I swear.

M. DUBOST: M. Cappelen, you were born 18 December 1903?

CAPPELEN: Yes.

M. DUBOST: In what town?

CAPPELEN: I was born in Kvitseid, province of Telemark, Norway.

M. DUBOST: What is your profession?

CAPPELEN: I was a lawyer, but now I am a business man.

M. DUBOST: Will you tell what you know of the atrocities of the Gestapo in Norway?

CAPPELEN: My Lord, I was arrested on 29 November 1941 and taken to the Gestapo prison in Oslo, Moellergata 19. After 10 days I was interrogated by two Norwegian NS, or Nazi police agents. They started in at once to beat me with bludgeons. How long this interrogation lasted I cannot remember, but it led to nothing. So after some days I was brought to 32 Victoria Terrace. That was the headquarters of the Gestapo in Norway. It was about 8 o'clock at night. I was brought into a fairly big room and they asked me to undress. I had to undress until I was absolutely naked. I was a little bit swollen after the first treatment I had by the Norwegian police agents, but it was not too bad.

There were present about six or eight Gestapo agents and their leader was Femer; Kriminalrat was his title. He was very angry and they started to bombard me with questions which I could not answer. So Femer ran at me and tore all the hair off my head, hair and blood were all over the floor around me. And so, all of a sudden, they all started to run at me and beat me with rubber bludgeons and iron cable-ends. That hurt me very badly and I fainted. But I was brought back to life again by their pouring ice water over me. I vomited, naturally, because I was feeling very sick. But that only made them angry; and they said, "Clean up, you dirty dog!" And I had to make an attempt to clean up with my bare hands.

In this way they carried on for a long, long time, but the interrogation led to nothing because they bombarded me with questions and asked me of persons whom I did not know or scarcely knew.

I suppose it must have been in the morning I was brought back again to the prison. I was placed in my cell and felt very sick and weak. All during the day I asked the guard if I could not have a doctor; that was the 19th. After some days—I suppose it must have been the day before Christmas Eve 1941—I was again, in the night, brought to the Victoria Terrace. The same happened as last time, only this time it was very easy for me to undress because I had only a coat on me. I was swollen up from the last beating. Just like the last time, six, seven, or eight Gestapo agents were present.

THE PRESIDENT: German Gestapo, do you mean?

CAPPELEN: Yes, German Gestapo, all of them. And then there was Femer present at that time, too. He had a rank in the SS and was criminal commissar. Then they started to beat me again, but it was useless to beat a man like me who was so swollen up and looking so bad. Then they started in another way, they started to screw and break my arms and legs. And my right arm was dislocated. I felt that awful pain, and fainted again. Then the same happened as last time; they poured water on me and I came back again to life.

Now all the Germans there were absolutely mad. They roared like animals and bombarded me with questions again, but I was so tired I could not answer.

Then they placed a sort of home-made—it looked to me like a sort of home-made—wooden thing, with a screw arrangement, on my left leg; and they started to screw so that all the flesh loosened from the bones. I felt an awful pain and fainted away again. But I came back to consciousness again; and I have still big marks here on my leg from the screw arrangement, now, four years afterwards.

So that led to nothing and then they placed something on my neck—I still have marks here *[indicating]*—and loosened the flesh here. But then I had a collapse and all of a sudden I felt that I was sort of paralyzed in the right side. It has otherwise been proved that I had a cerebral hemorrhage. And I got that double vision; I saw two of each Gestapo agent, and all was going round and round for me. That double vision I have had 4 years, and when I am tired it comes back again. But I am better now, so I can move again on the right side; but the right side is a little bit affected from that.

Well, I cannot remember much more from that night, but the other prisoners who had to clean up the corridors in the prison had

seen them bringing me back again in the morning. That must have been about 6 o'clock in the morning. They thought I was dead because I had no irons on my hands. If it had been for 1 day or 2 days, I can't tell, but one day I moved again and was a little bit clear; and then the guard at once was in my cell where I was lying on a cot in my own vomiting and blood, and afterwards there came a doctor.

He had, I suppose, quite a high rank; which rank I can't exactly say. He told me that I most probably would die, especially if I wasn't—I asked him, "Couldn't you bring me to a hospital, because . . ." He said, "No. Fools are not to be brought to any hospital, before you do just what we say you shall do. Like all Norwegians, you are a fool."

Well, they put my arm into joint again. That was very bad, but two soldiers held me and they drew it in, and I fainted away again. So the time passed and I rested a bit. I couldn't walk, because it all seemed to be going around for me. So I was lying on the cot. And so one day—it must have been in the end of February or in the middle of February 1942—they came again. It must have been about ten o'clock in the night, because the light in my cell had been out for quite a long time. They asked me to stand up, and I made an attempt, and fell down again because of the paralysis. Then they kicked me; but I said, "Is not it better to put me to death, because I can't move?"

Well, they dragged me out of the cell, and I was again brought up to Victoria Terrace; that is the headquarters where they made their interrogations. This time the interrogation was led by one SS man called Stehr. I could not stand so, naked as I was, I was lying on the floor. This Stehr had some assistants, four or five Gestapo agents; and they started to tramp on me and to kick me. So all of a sudden they brought me to my feet again and brought me to a table where Stehr was sitting. He took my left hand like this *[indicating]* and put some pins under my nails and started to break them up. Well, it hurt me badly; and all things began going around and around for me—the double vision—but the pain was so intense that I drew my hand back. I should not have done that, because that made them absolutely furious. I fainted away, collapsed, and I do not know for how long a time; but I came back to life again by the smelling of burned flesh or burned meat. And then one of the Gestapo agents was standing with a little sort of lamp burning me under my feet. It did not hurt me too much, because I was so feeble that I did not care; and I was so paralyzed my tongue could not work, so I could not speak, only groaned a bit, crying, naturally, always.

Well, I don't remember much more of that time, but this was to me one of the worst things I went through with respect to interrogations. I was brought back again to the prison and time passed and I attempted to eat a little bit. I spewed most of it up again, I threw it up again, most of it. But little by little I recovered. I was still paralyzed in the side, so I couldn't stand up.

But I was also taken into interrogations again, and then I was confronted with other Norwegians, people I knew and people I did not know; and the most of them were badly treated. They were swollen up, and I remember especially two of my friends, two very good persons. I had been confronted with them, and they were looking very bad from torture, and when I came back again after my imprisonment I learned that they both were dead; they had died from the treatment.

Another incident which I aim to tell—I hope My Lord will permit me to do it—concerned a person called Sverre Emil Halvorsen. He was one day—that must have been in the autumn or in August or October 1943—a little bit swollen up and very unhappy; and he said they had treated him so bad, but he and some of his friends had been in some sort of a court where they had been told that they were to be shot the next day. They placed a sort of sentence upon them, just to set an example.

Well, Halvorsen had, naturally, a headache and felt very ill, and I asked the guard to bring—the head guard, that was a person named Herr Götz. He came and asked what the devil I wanted. I said, "My comrade is very ill, could not he have some aspirins?" "Oh no," he said, "it is a waste to give him aspirin, because he is to be shot in the morning."

Next morning he was brought out of the cell, and after the war they found him up at Trondheim together with other Norwegians in a grave there with a bullet through his neck.

Well, the Moellergate 19, in Oslo, the prison where I was for about 25 months, was a house of horror. I heard every night—nearly every night—people screaming and groaning. One day, it must have been in December 1943, about the 8th of December, they came into my cell and told me to dress. It was in the night. I put on my ragged clothes, what I had. Now I had recovered, practically. I was naturally lame on the one side, could not walk so well, but I could walk; and I went down in the corridor and there they placed me as usual against the wall, and I waited that they would bring me away and shoot me. But they did not shoot me; they brought me to Germany together with lots of other Norwegians. I learned afterwards about some few of my friends—and by friends,

I mean Norwegians. We were so-called "Nacht und Nebel" prisoners, "Night and Mist" prisoners. We were brought to a camp called Natzweiler, in Alsace. It was a very bad camp, I must say.

We had to work to take stones out of the mountains. But I shall not bore you about my tales from Natzweiler, My Lord, I will only say that people of all other nations—French, Russians, Dutch, and Belgians—were there and we are about five hundred Norwegians who have been there. Between 60 and 70 percent died there or in other camps of concentration. Also, two Danes were there.

Well, we saw many cruel things there, so cruel that they need—they are well known. The camp had to be evacuated in September 1944. We were then brought to Dachau near Munich, but we did not stay long there; at least, I didn't stay long there. I was sent to a Kommando called Aurich in East Friesland, where we were about—that was an under-Kommando of Neuengamme, near Hamburg. We were about fifteen hundred prisoners. We had to dig tank traps. Well, we had to walk every day about 3 or 4 hours, and go by train for 1 hour to the Panzer Gräben where we worked. The work was so strong and so hard and the way they treated us so bad, that most of them died there. I suppose about half of the prisoners died of dysentery or of ill-treatment in the five or six weeks we were there. It was too much even for the SS, who had to take care of the camp, so they gave it up, I suppose; and I was sent from Neuengamme, near Hamburg, to a camp called Gross-Rosen, in Silesia; it is near Breslau. That was a very bad camp, too. We were about 40 Norwegians there; and of those 40 Norwegians we were about 10 left after 4 to 5 weeks.

THE PRESIDENT: You will be some little time longer, so I think we better adjourn now for 10 minutes.

[A recess was taken.]

M. DUBOST: M. Cappelen, will you continue to speak to us of your passage through those camps, particularly of what you know of the camp of Natzweiler and the role at Natzweiler of Dr. Hirt, Hirch, or Hirtz of the German medical faculty of Strasbourg?

CAPPELEN: Well, in Natzweiler, yes, there were also carried on experiments. Just beside the camp there was a farm they called Struthof. That was practically a part of the camp; and some of the prisoners had to work there to clean up the rooms; and—well not so often, but sometimes—they were taken out. For instance, one day, I remember, all the Gypsies were taken out, and then they were brought down to Struthof. They were very afraid of being brought down there.

Well, one friend of mine, a Norwegian called Hvidding, who had a job in the hospital—so-called hospital—in the camp, told me the day after the Gypsies were taken and brought to Struthof, "I tell you something. They have, so far as I understand, tried some sort of gas on them."

"How do you know that?" I asked.

"Well, come along with me."

And then, through the window of the hospital, I could see four of the Gypsies lying in beds. They did not look well, and it was not easy to look through the glass, but they had some mucus, I suppose, around their mouths. And he told me that they had—Hvidding told me—that the Gypsies could not tell much because they were so ill, but so far as he understood, it was gas which they had used upon them. There had been 12 of them, and 4 were living; the other 8, so far as he understood, died down there at Struthof. Then he told further on, "You see that man who sometimes walks through the camp together with some others?"

"Well, I have seen him," I said.

"That is Professor Hirtz from the German University in Strasbourg."

I am quite sure Hvidding said that this man is Hirt or Hirtz. He is coming here now nearly daily with a so-called commission to see those who are coming back again from Struthof, to see the result. That is all I know about that so far.

M. DUBOST: How many Norwegians died at Gross-Rosen?

CAPPELEN: In Gross-Rosen, it is not possible for me to say here exactly; but I know about 40 persons who had been there, and I also know about ten who came back again. Well, Gross-Rosen was a bad camp. But nearly the worst of it all was the evacuation of Gross-Rosen. I suppose it must have been in the middle of February of that year. The Russians came nearer and nearer to Breslau.

THE PRESIDENT: You mean 1945?

CAPPELEN: Yes, 1945 I mean. One day we were placed upon a so-called "Appellplatz" (roll call ground). We were very feeble, all of us. We had hard work, little food, and all sorts of ill-treatment. Well, we started to walk in parties of about 2,000 to 3,000. In the party I was with, we were about 2,500 to 2,800. We heard so and so many when they took up the numbers.

Well, we started to walk, and we had SS guards on each side. They were very nervous and almost like mad persons. Several were drunk. We couldn't walk fast enough, and they smashed in the heads of five who could not keep up. They said in German,

"That is what happens to those who cannot walk." The others would have been treated in the same way if they had not been able to follow. We walked the best we could. We attempted to help one another, but we were all too exhausted. After walking for 6 to 8 hours we came to a station, a railway station. It was very cold and we had only striped prison clothes on, and bad boots; but we said, "Oh, we are glad that we have come to a railway station. It is better to stand in a cow truck than to walk, in the middle of winter." It was very cold, 10 to 12 degrees below zero (centigrade). It was a long train with open cars. In Norway we call them sand cars, and we were kicked on to those cars, about 80 on each car. We had to sit together and on this car we sat for about 5 days without food, cold, and without water. When it was snowing we made like this *[indicating]* just to get some water into the mouth and, after a long, long time—it seemed to me years—we came to a place which I afterwards learned was Dora. That is in the neighborhood of Buchenwald.

Well, we arrived there. They kicked us down from the cars, but many were dead. The man who sat next to me was dead, but I had no right to get away. I had to sit with a dead man for the last day. I didn't see the figures myself, naturally, but about one-third of us or half of us were dead, getting stiff. And they told us that one third—I heard the figure afterwards in Dora—that the dead on our train numbered 1,447.

Well, from Dora I don't remember so much, because I was more or less dead. I have always been a man of good humor and high spirited, to help myself first and my friends; but I had nearly given up.

I do not remember so much before, so I had a good chance, because Bernadotte's action came and we were rescued and brought to Neuengamme, near Hamburg; and when we arrived, there were some of my old friends, the student from Norway who had been deported to Germany, other prisoners who came from Sachsenhausen and other camps, and the few, comparatively few, Norwegian "NN" prisoners who were living, all in very bad condition. Many of my friends are still in the hospital in Norway. Some died after coming home.

That's what happened to me and my comrades in the three and three-quarter years I was in prison. I am fully aware that it is impossible for me to give details more than I have done; but I have taken, so to say, the parts of it which show, I hope, the way they behaved against Norwegians, and in Norway, the German SS.

M. DUBOST: For what reason were you arrested?

CAPPELEN: I was arrested the 29th of November 1941, in a place called then Hoistly. That is a sort of sanitarium where one goes skiing.

M. DUBOST: What had you done? What was held against you?

CAPPELEN: Well, what I had done. Like most of us Norwegians, we regarded ourselves to be at war with Germany in one way or another; and naturally we, most of us, were against them by feelings; and also, as the Gestapo asked me, I remember, "What do you think of Mr. Quisling?" I only answered, "What would you have done if a German officer—even a major—when your country was at war and your government had given an order of mobilization, he came and said, 'Better forget the Mobilization Order?' " A man can't do that with respect.

M. DUBOST: On the whole, did the German population know of, or were they unaware of, what went on in the camps?

CAPPELEN: That is, naturally, very difficult for me to answer. But in Norway, at least, even at the time when I was arrested, we knew quite a lot about how the Germans treated their prisoners.

And there is one thing I remember in Munich where I was working. I was not working; I was in Dachau for that short period. With some others, I was once brought to the town of Munich to go into the ruins to seek for persons and find bombs and things like that. I suppose that was the idea. They never told us anything, but we knew what was on. We were about one hundred persons, prisoners. We were looking like dead persons, all of us looking very bad. We went through the streets and people could see us; and they also could see what we were going to do, the sort of work which one should think was very dangerous and which should in some way help them; but it was no fun for them to see us. Some of them were hollering to us, "It is your fault that we are bombed."

M. DUBOST: Were there any chaplains in your camp? Were you allowed to pray?

CAPPELEN: Well, we had among the "NN" prisoners in Natzweiler a priest from Norway. He was, I suppose, what you call in English a Dean. He was of quite high rank. In Norwegian we call it "Prost." From the west coast of Norway. He was also brought to Natzweiler as an "NN" prisoner, and some of my comrades asked him if they could not meet sometimes so he could preach to them. But he said, "No, I don't dare to do it. I had a Bible. They have taken it from me and they joked about it and said, 'You dirty churchman, if you show the Bible and things like that . . .' " You know, therefore, we did not do anything in that way.

M. DUBOST: Those who were dying among you, did they have the consolation of their religion at the time of their death?

CAPPELEN: No.

M. DUBOST: Were the dead treated with decency?

CAPPELEN: No.

M. DUBOST: Was there any religious service conducted?

CAPPELEN: No.

M. DUBOST: I have no further questions to ask.

THE PRESIDENT: Does counsel for the U.S.S.R. desire to cross-examine?

GEN. RUDENKO: I have no question, Mr. President.

THE PRESIDENT: Has the United States?

[No response.]

Then does any member of the defendants' counsel wish to ask the witness any questions?

DR. MERKEL: Witness, at your first interrogations which as a rule took place about ten days after arrest, were you interrogated by German or by Norwegian Gestapo men?

CAPPELEN: It was made by two Norwegians who belonged to, as I learned afterward, the so-called State Police. That was not the police in Norway. They were working together with the Gestapo; in fact, it was the same. But it was by them I was interrogated after the 10 days. But they, as I heard afterwards, usually did it in that way, because it was easy to do it in Norwegian; and some of the Germans could not speak Norwegian. Most of them could not. I think it was, therefore, that they took the Norwegian; and you can call them Gestapo, practically. They let them handle the persons first.

DR. MERKEL: Then at the Victoria Terrace, which name I believe you used to designate the Gestapo headquarters in Oslo, were there Norwegian or German officials present during your interrogation?

CAPPELEN: I dare say there may have been one Norwegian as a sort of interpreter; but as I spoke the German language, I cannot, with 100 percent surety, say if there were one or two Norwegian policemen there. It is difficult. But as Victoria Terrace was the headquarters of the Gestapo, naturally they had some Norwegian Nazis to help them there. But most of them were German.

DR. MERKEL: Were the persons who interrogated you in uniform or in civilian clothes?

CAPPELEN: During my interrogation I have sometimes seen them in uniform, too. But when they tortured me they were mostly in civilian clothes. So far as I remember, there was only one person in uniform during one of the torture interrogations.

DR. MERKEL: You stated that you were then treated by a physician. Did this physician come of his own free will or was he asked to come?

CAPPELEN: The first time I asked for a doctor, but then I did not get any. But at the time when I came back to consciousness, when I was supposed perhaps to be dead, the guard possibly had been looking at me because he was then running away; and afterwards they came with a doctor.

DR. MERKEL: Did you know that in the German concentration camps there was an absolute prohibition against talking about the conditions in the camp—among the prisoners as well as to outsiders, of course—and that any violation of the order not to talk was subject to most severe penalties?

CAPPELEN: Well, in the camps it was like this: It was naturally more or less understood that it was more or less forbidden to talk about the tortures we had gone through; but naturally in the camps, the Nacht und Nebel Camps where I was, the situation was so bad that even torture sometimes seemed to be better than dying slowly away like that, so almost the only thing we spoke about was: "When shall the war end; how to help our comrades; and are we to get some food tonight or not?"

DR. MERKEL: Thank you.

THE PRESIDENT: Does any other defendant's counsel wish to ask any questions? Mr. Dubost, have you anything you wish to ask?

M. DUBOST: I have nothing further to ask, Mr. President. I thank you.

THE PRESIDENT: Then the witness can retire.

[The witness left the stand.]

M. DUBOST: If the Tribunal will permit, we will now hear a witness, Roser, who will give a few details on the conditions under which they kept French prisoners of war in reprisal camps.

[The witness, Paul Roser, took the stand.]

THE PRESIDENT: What is your name?

M. PAUL ROSER (Witness): Roser, Paul.

THE PRESIDENT: You swear to speak without hate or fear, to state the truth, all the truth, only the truth? Raise the right hand and say "I swear."

[The witness raised his right hand and repeated the oath in French.]

THE PRESIDENT: You may sit down.

M. DUBOST: Your name is Paul Roser, R-o-s-e-r?

ROSER: R-o-s-e-r.

M. DUBOST: You were born on the 8th of May 1903? You are of French nationality?

ROSER: I am French.

M. DUBOST: You were born of French parents?

ROSER: I was born of French parents.

M. DUBOST: You were a prisoner of war?

ROSER: Yes.

M. DUBOST: You were taken prisoner in battle?

ROSER: Yes, I was.

M. DUBOST: In what year?

ROSER: 14 June 1940.

M. DUBOST: You sought to escape?

ROSER: Yes, several times.

M. DUBOST: How many times?

ROSER: Five times.

M. DUBOST: Five times. You were transferred finally to a disciplinary camp?

ROSER: Yes.

M. DUBOST: Will you indicate the regime of such a camp? Will you indicate your rank, and the treatment which French people of your rank in those disciplinary camps had to submit to, and for what reasons?

ROSER: Very well, I was an "aspirant," a rank which, in France, is between a first sergeant and a second lieutenant. I was in several disciplinary camps. The first was a small camp which the Germans called Strafkommando, in Linzburg in Hanover. It was in 1941. There were about thirty of us.

While I was in that camp during the summer of 1941, we attempted to escape. We were recaptured by our guards at the very moment when we were leaving the camp. We were naturally unarmed. The Germans, our guards, having recaptured one of us, attempted to make him reveal the others who also had sought to escape. The man remained silent. The guards hurled themselves upon him, beating him with the butts of their pistols in the face, with bayonets, with the butts of their rifles. At that moment, not wishing to let our comrade be killed, several of us stepped forward and revealed that we sought to escape. I then received a beating with bayonets applied to my head and fell into a swoon. When I recovered consciousness one of the Germans was kneeling on my leg and was continuing to strike me. Another one, raising his gun, was seeking to strike my head. I was saved on that occasion through the intervention of my comrades, who threw themselves between the Germans and myself. That night we were beaten for exactly 3 hours with rifle butts, with bayonet blows, and with pistol butts in the face. I lost consciousness three times.

The following day we were taken to work, nevertheless. We dug trenches for the draining of the marshes. It was a very hard sort of work, which started at 6:30 in the morning, to be completed at 6 o'clock at night. We had two stops, each of a half-hour. We had nothing to eat during the day. Soup was given to us, when we came back at night, with a piece of bread, a small sausage or 2 cubic centimeters of margarine, and that was all.

Following our attempted escape, our guards held back from us all the parcels which our families sent to us for a month. We could not write nor could we receive mail.

At the end of three and a half months, in September 1941, we were shipped to the regular Kommandos. I, personally, was quite ill at that time and I came back to Stalag X B at Sandbostel.

M. DUBOST: Why were you subjected to such a special regime, although you were an "aspirant"?

ROSER: Certainly because of my attempted escape.

M. DUBOST: Had you agreed to work?

ROSER: No, not at all. Like all my comrades of the same rank and like most of the noncommissioned officers and like all "aspirants," I had refused to work, invoking the provision of the Geneva Convention, which Germany had signed and which prescribed that noncommissioned officers who were prisoners cannot be forced to perform any labor without their consent. The German Army, into whose hands we had fallen, practically speaking, never respected that agreement undertaken by Germany.

M. DUBOST: Are you familiar with executions that took place in Oflag XI B?

ROSER: I was made familiar with the death of several French or Allied prisoners, specifically at Oflag XI at Grossborn in Pomerania. A French prisoner, Lieutenant Robin, who with some of his comrades had prepared an escape and for that purpose had dug a tunnel, was killed in the following manner: The Germans having had information that the tunnel had been prepared, Hauptmann Buchmann, who was a member of the officer staff of the camp, watched with a few German guards for the exit of the would-be escapees. Lieutenant Robin, who was first to emerge, was killed with one shot while obviously he could in no manner attack anyone or defend himself.

Other cases of this type occurred. One of my friends, a French Lieutenant Ledoux, who was sent to Graudenz Fortress where he was subjected to a hard detention regime, saw his best friend, British Lieutenant Anthony Thomson, killed by Hauptfeldwebel Ostreich with one pistol shot in the neck, in their own cell. Lieutenant Thomson had just sought to escape and had been recaptured

by the Germans on the airfield. Lieutenant Thomson belonged to the RAF.

I should like to state also that in the camp of Rawa-Ruska in Galicia, where I spent 5 months, several of our comrades . . .

M. DUBOST: Would you tell us why you were at Rawa-Ruska?

ROSER: In the course of the winter, 1941-42, the Germans wanted to intimidate, first, the noncommissioned officers who were refractory in labor; second, those who had sought to escape; and third, the men who were being employed in Kommandos (labor gangs) and who were caught in the act of performing sabotage. The Germans warned us that from 1 April 1942 onward all these escapees who were recaptured would be sent to a camp, a special camp called a Straflager, at Rawa-Ruska in Poland.

It was following another attempt to escape that I was taken to Poland with about two thousand other Frenchmen. I was at Limburg-an-der-Lahn, Stalag XII A, where we were regrouped and placed in railway cars. We were stripped of our clothes, of our shoes, of all the food which some of us had been able to keep. We were placed in cars, in each of which the number varied from 53 to 56. The trip lasted 6 days. The cars were open generally for a few minutes in the course of a stop in the countryside. In 6 days we were given soup on 2 occasions only, once at Oppel, and another time at Jaroslan, and the soup was not edible. We remained for 36 hours without anything to drink in the course of that trip, as we had no receptacle with us and it was impossible to get a supply of water.

When we reached Rawa-Ruska on 1 June 1942, we found other prisoners—most of them French, who had been there for several weeks—extremely discouraged, with a ration scale much inferior to anything that we had experienced until then, and no International Red Cross or family parcel for anyone.

At that time there were about twelve to thirteen thousand in that camp. There was for that number one single faucet which supplied, for several hours a day, undrinkable water. This situation lasted until the visit of two Swiss doctors, who came to the camp in September, I think. The billets consisted of 4 barracks, where rooms contained as many as 600 men. We were stacked in tiers along the walls, 3 rows of them, 30 to 40 centimeters for each of us.

During our stay in Rawa-Ruska there were many attempts at escape, more than five hundred in 6 months. Several of our comrades were killed. Some were killed at the time when a guard noticed them. In spite of the sadness of such occurrences, no one of us contested the rights of our guards in such cases, but several were

murdered. In particular, on 12 August 1942, in the Tarnopol Kommando, a soldier, Lavesque, was found bearing evidence of several shots and several large wounds caused by bayonets.

On the 14th of August, in the Verciniec Kommando, 93 Frenchmen, having succeeded in digging a tunnel, escaped. The following morning three of them, Conan, Van den Boosch, and Poutrelle, were caught by German soldiers, who were searching for them. Two of them were sleeping; the third, Poutrelle, was not asleep. The Germans, a corporal and two enlisted men, verified the identity of the three Frenchmen. Very calmly they told them: "Now we are obliged to kill you." The three wretched men spoke of their families, begged for mercy. The German corporal gave the following reply, which we heard only too often: "Befehl ist Befehl" ("An order is an order"); and they shot down immediately two of the French prisoners, Van den Boosch and Conan. Poutrelle was left like a madman and by sheer luck was not caught again. But he was captured a few days later in the region of Kraków. He was then brought back to Rawa-Ruska proper, where we saw him in a condition close to madness.

On the 14th of August, once again in the Stryj Kommando, a team of about twenty prisoners accompanied by several guards, were on their way to work....

M. DUBOST: Excuse me, you are talking about French prisoners of war?

ROSER: Yes, French prisoners of war, so far.

Going along a wood, the German noncommissioned officer, who for some time had been annoying two of them, Pierrel and Ondiviella, directed them into the woods. A few moments later the others heard shots. Pierrel and Ondiviella had just been killed.

On 20 September 1942, at Stryj once again, a Kommando was at work under the supervision of German soldiers and German civilian foremen. One of the Frenchmen succeeded in escaping. Without waiting, the German noncommissioned officers selected two men, if my memory is correct, Saladin and Duboeuf, and shot them on the spot. Incidents of this type occurred in other circumstances. The list of them would be long indeed.

M. DUBOST: Can you speak of the conditions under which the refractory noncommissioned officers who were with you at camp at Rawa-Ruska lived?

ROSER: The noncommissioned officers who refused to work were grouped together in one section of the camp, in two of the large stables which served as billets. They were subjected to a regime of most severe repression; frequent roll calls for assembly;

lying-down and standing-up exercise which after a while leaves one quite exhausted.

One day, Sergeant Corbihan, having refused Captain Fournier—a German captain with a French name—to take a tool to work with, the German captain made a motion and one of the German soldiers with him ran Corbihan through with his bayonet; Corbihan by miracle escaped death.

M. DUBOST: How many of you disappeared?

ROSER: At Rawa-Ruska, in the 5 months that I spent there, we buried 60 of our comrades who had died from disease or had been killed in attempted escapes. But so far, 100 of those who were with us and sought to escape have not been found.

M. DUBOST: Is this all that you have witnessed?

ROSER: No, I should say that our stay at the punishment camp, Rawa-Ruska, involved one thing more awful than anything else we prisoners saw and suffered. We were horrified by what we knew was taking place all about us. The Germans had transformed the area of Lvov-Rawa-Ruska into a kind of immense ghetto. Into that area, where the Jews were already quite numerous, had been brought the Jews from all the countries of Europe. Every day for 5 months, except for an interruption of about six weeks in August and September 1942, we saw passing about 150 meters from our camp, one, two, and sometimes three convoys, made up of freight cars in which there were crowded men, women and children. One day a voice coming from one of these cars shouted: "I am from Paris. We are on our way to the slaughter." Quite frequently, comrades who went outside the camp to go to work found corpses along the railway track. We knew in a vague sort of way at that time that these trains stopped at Belcec, which was located about 17 kilometers from our camp; and at that point they executed these wretched people, by what means I do not know.

One night in July 1942 we heard shots of submachine guns throughout the entire night and the moans of women and children. The following morning bands of German soldiers were going through the fields of rye on the very edge of our camp, their bayonets pointed downward, seeking people hiding in the fields. Those of our comrades who went out that day to go to their work told us that they saw corpses everywhere in the town, in the gutters, in the barns, in the houses. Later some of our guards, who had participated in this operation, quite good-humoredly explained to us that 2,000 Jews had been killed that night under the pretext that two SS men had been murdered in the region.

Later on, in 1943, during the first week of June, there occurred a pogrom which in Lvov caused the death of 30,000 Jews. I was

not personally in Lvov, but several French military doctors, Major Guiguet and Lieutenant Levin of the French Medical Corps, described this scene to me.

THE PRESIDENT: The witness appears to be not finishing and therefore I think we had better adjourn now until 2 o'clock.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: I desire to announce that the Defendant Kaltenbrunner will be absent from this afternoon's session on account of illness.

M. DUBOST: With the permission of the Tribunal, we shall continue examining the witness, M. Roser.

M. Roser, this morning you finished the description of the conditions under which you witnessed the pogrom of Rawa-Ruska and you wanted to give us some details on another pogrom. You told us that a German soldier, who had taken a part in it, made a statement to you which you wanted to relate to us. Is that right?

ROSER: Yes.

M. DUBOST: We are listening to you.

ROSER: At the end of 1942 I was taken to Germany, and I, together with a French doctor, had the opportunity of meeting the chauffeur of the German physician who was head of the infirmary where I was at that time. This soldier, whose name I have forgotten, said to me as follows:

> "In Poland, in a town the name of which I have forgotten, a sergeant from our regiment went with a Jewess. A few hours later he was found dead. Then"—said the German soldier—"my battalion was called out. Half of it cordoned off the ghetto, and the other half, two companies, to one of which I belonged, forced its way into the houses and threw out of the windows, pell-mell, the furniture and the inhabitants."—The German soldier finished his story by saying—"Poor fellow! It was terrible, horrible!"—We asked him then—"How could you do such a thing?"—He gave us the fatalistic reply—"Orders are orders."
>
> This is the example which I previously mentioned.

M. DUBOST: If I remember rightly, when speaking of Rawa-Ruska you started describing the treatment of Russian prisoners who were in this camp before you.

ROSER: Yes. That is correct. The first French batch, which arrived in Rawa-Ruska the 14th or 15th of April 1942, followed a group of 400 Russian prisoners of war, who were the survivors of a detachment of 6,000 men decimated by typhus. The few medicines found by the French doctors upon arrival at Rawa-Ruska came from the infirmary of the Russian prisoners. There were a few aspirin tablets and other drugs; absolutely nothing against typhus. The camp had not been disinfected after the sick Russians had left.

I cannot speak here of these wretched Russian survivors of Rawa-Ruska, without asking the Tribunal for permission to describe the terrible picture we all—I mean all the French prisoners who were in the stalags of Germany in the autumn or winter of 1941—saw when the first batches of Russian prisoners arrived. It was on a Sunday afternoon that I watched this spectacle, which was like a nightmare. The Russians arrived in rows, five by five, holding each other by the arms, as none of them could walk by themselves—"walking skeletons" was really the only fitting expression. Since then we have seen photographs of those camps of deportation and death. Our unfortunate Russian comrades had been in that condition since 1941. The color of their faces was not even yellow, it was green. Almost all squinted, as they had not strength enough to focus their sight. They fell by rows, five men at a time. The Germans rushed on them and beat them with rifle butts and whips. As it was Sunday afternoon the prisoners were at liberty, inside the camp, of course. Seeing that, all the French started shouting and the Germans made us return to the barracks. Typhus spread immediately in the Russian camp, where, out of the 10,000 who had arrived in November, only 2,500 survived by the beginning of February.

These figures are accurate. I have them from two sources. First, from a semiofficial source, which was the kitchen of the camp. In front of the kitchen a big chart was posted where the Germans recorded the ridiculously small rations and the number of men in the camp. This number decreased daily by 80 to 100, in the Russian camp. On the other hand, French comrades employed in the camp's reception office, called "Aufnahme," also knew the figures, and from them I got the figure of 2,500 survivors in February. Later, particularly at Rawa-Ruska, I had the opportunity of seeing French prisoners from all parts of Germany. All those who were in stalags, that is, in the central camps, at the time mentioned, saw the same thing. Many of the Russian prisoners were thrown in a common grave, even before they were dead. The dead and the dying were piled up between the barracks and thrown into carts. The first few days we could see the corpses in the carts, but as the German camp commandant did not like to see French soldiers salute their fallen Russian comrades, he had them covered with canvas after that.

M. DUBOST: Were your camps guarded by the German Army or by the SS?

ROSER: By the Wehrmacht.

M. DUBOST: Only by the German Army?

ROSER: I was never guarded by anybody but the German Army and once by the Schutzpolizei, after I had tried to escape.

M. DUBOST: And were you recaptured?

ROSER: Yes.

M. DUBOST: One last question. You were kept in a number of prisoner-of-war camps in Germany, were you not?

ROSER: Yes.

M. DUBOST: In all those camps did you have the opportunity to practice your religion?

ROSER: In the camps . . .

M. DUBOST: What is your religion?

ROSER: I am a Protestant. In the camps where I was kept, Protestants and Catholics were generally allowed to practice their religion. But I was detailed to working squads, particularly to an agricultural group in the Bremen district, called "Maiburg," I think, where there was a Catholic priest. There were about sixty of us in this group. This Catholic priest could not say Mass—they would not let him.

M. DUBOST: Who?

ROSER: The sentries—the "Posten."

M. DUBOST: Who were soldiers of the German Army?

ROSER: Yes, always.

M. DUBOST: I have no further questions.

THE PRESIDENT: Does the British Prosecutor wish to ask any questions?

BRITISH PROSECUTOR: No.

THE PRESIDENT: Or the United States?

AMERICAN PROSECUTOR: No.

THE PRESIDENT: Do any of the Defense Counsel wish to ask any questions?

DR. NELTE: Witness, when were you taken prisoner?

ROSER: I was taken prisoner on 14 June 1940.

DR. NELTE: In which camp for prisoners of war were you put?

ROSER: I was immediately sent to the Oflag, XI D, at Gross-born-Westfalenhof in Pomerania.

DR. NELTE: Oflag?

ROSER: Yes.

DR. NELTE: What regulations were made known to you in the prisoner-of-war camp regarding a possible attempt at escape?

ROSER: We were warned that we would be shot at and that we should not try to escape.

DR. NELTE: Do you think that this warning was in agreement with the Geneva Convention?

ROSER: This one certainly.

DR. NELTE: You mentioned, if I heard correctly, the case of Robin from Oflag XI D. You said that there was an officer who dug a tunnel in order to escape from the camp, and that as he was the first to emerge from the tunnel, he was shot. Is that right?

ROSER: Yes; I said so.

DR. NELTE: Were you with those officers who tried to escape?

ROSER: I said before that this was related to me by Lieutenant Ledoux who was still in Oflag XI D when that happened.

DR. NELTE: I only wanted to ascertain that this officer, Robin, met his death while trying to escape.

ROSER: Yes, but here I should like to mention one thing, namely, all the prisoners of war who escaped knew they risked their lives. Everyone attempting to escape, knew that he risked a bullet. But it is one thing to be killed trying to climb the barbed wire, for instance, and it is another thing to be ambushed and murdered at a moment when one cannot do anything, when one is unarmed and at the mercy of somebody, as was the case with Lieutenant Robin. He was in a low tunnel, flat on his stomach, crawling along, and was killed. That was not in accordance with international rules.

DR. NELTE: I see what you mean, and you may rest assured that I respect every prisoner of war who tried to do his duty as a patriot. In this case, however, which you did not witness, I wanted to make the point that this courageous officer who left the tunnel might not have answered when challenged by the guards and was therefore shot.

ROSER: No.

DR. NELTE: Though you have just given a vivid description of the incident, I think it was a product of your imagination because, according to your own testimony, you did not see it yourself; is that correct?

ROSER: There are not 36 different ways of getting out of an escape tunnel: You lie flat on your stomach, you crawl, and if you are killed before you get out of the tunnel, I call that murder.

DR. NELTE: And then you saw the officer...

THE PRESIDENT: Dr. Nelte, we do not want argument in cross-examination. The witness has already stated that he was not there and did not see it, and he has explained the facts.

DR. NELTE: Thank you. The incident in respect to Lieutenant Thomson is not quite clear to me. In this case too, I believe you said you had no direct knowledge, but were informed by a friend. Is that correct?

ROSER: I cannot but repeat what I said before. I related the story of the French lieutenant, Ledoux, who told me that he was in the fortress of Graudenz together with an R.A.F. lieutenant called Anthony Thomson. This English officer escaped from the fortress. He was recaptured on the air field, taken back to the fortress, put into the same cell as Lieutenant Ledoux, and Ledoux saw him killed by a revolver shot in the back of the neck. Ledoux gave me the name of the murderer. I think I mentioned him just now, Hauptfeldwebel Ostereich. This is the story told me by an eyewitness.

DR. NELTE: Was that Hauptfeldwebel Ostereich a guard at the camp, or to what formation did he belong?

ROSER: I don't know.

DR. NELTE: Do you know that you, as prisoner of war, had a right to complain?

ROSER: Certainly; I personally knew the Geneva Convention which was signed by Germany in 1934.

DR. NELTE: Knowing those regulations you also knew, did you not, that you could complain to the camp commander? Did you avail yourself of that?

ROSER: I tried to do so, but without success.

DR. NELTE: May I ask you for the name of the camp commander who refused to hear you?

ROSER: I do not know the name, but I will tell you when I tried to complain. It was when I was in the infamous Linzburg Strafkommando (punishment squad) in the province of Hanover. This squad belonged to Stalag XC. In the morning following the night I have just described, when, after an unsuccessful attempt at escape, we were beaten for 3 hours running, some of us were kept in the barracks. We then saw the immediate superior of the commander of the squad. It was an Oberleutnant, whose name I do not know, who saw that we were injured, particularly about the head, and he considered it quite all right. In the afternoon we went to work. When we returned at 7 o'clock we had the visit of a major, a very distinguished-looking man, who also thought that, as we had tried to escape, it was quite in order that we should be punished. As to our complaint, it went no further.

DR. NELTE: Did you know that the German Government had made an agreement with the Vichy Government regarding prisoners of war?

ROSER: Yes, I have heard of that, but they did not inspect squads of this kind.

DR. NELTE: You mean to say that only the camps were inspected, but not the labor squads?

ROSER: There were inspections of the labor squads, but not of the punishment squads where I was. That is the difference.

DR. NELTE: You were not always in a disciplinary squad, were you?

ROSER: No.

DR. NELTE: When were you put in a disciplinary squad?

ROSER: In April 1941, for the first time. It was a squad to which only officer cadets and priests were sent without any obvious reasons. This was the Linzburg Strafkommando squad which did not receive any visits. At Rawa-Ruska we received the visit of two Swiss doctors; I think it was in September 1942.

DR. NELTE: In September 1942?

ROSER: Yes, in September 1942.

DR. NELTE: Did you complain to the Swiss doctors?

ROSER: Not I personally, but our spokesman was able to talk to them.

DR. NELTE: And were there any results?

ROSER: Yes, certainly.

DR. NELTE: Do you not think that a complaint made through the camp commander would likewise have been successful, if you had wished to resort to it?

ROSER: We were not on very friendly terms with the German staff at Rawa-Ruska.

DR. NELTE: I do not quite understand you.

ROSER: I said we were not on friendly terms with the German commander of the Rawa-Ruska Camp.

DR. NELTE: It is not a question of good terms, but of a complaint which could be made in an official manner. Do you not think so?

[The witness shrugged his shoulders.]

DR. NELTE: When did you leave Rawa-Ruska?

ROSER: At the end of October 1942.

DR. NELTE: If I remember rightly, you mentioned the number of victims counted or observed by you, did you not?

ROSER: Yes.

DR. NELTE: How many victims were there?

ROSER: It was a figure given to me by Dr. Lievin, a French doctor at Rawa-Ruska. There were, as I said, about sixty deaths in the camp itself, to which approximately one hundred must be added who disappeared.

DR. NELTE: Are you speaking of French victims or victims in general?

ROSER: When I was at Rawa-Ruska there were only Frenchmen there, with a few Poles and a few Belgians.

DR. NELTE: I am putting this question because an official French report I have before me, dated 14 June 1945, states that the victims up to the end of July were 14 Frenchmen, and therefore for the period from August to September the number seems to me very high. Thank you.

THE PRESIDENT: Does any other German counsel want to put any questions to this witness? *[There was no response.]* M. Dubost?

M. DUBOST: I have finished with this witness, Mr. President. If the Tribunal will permit me, I shall now call another witness, the last one.

THE PRESIDENT: One moment, M. Dubost, the witness can retire.

[The witness left the stand.]

M. Dubost, could you tell the Tribunal whether the witness you are about to call is going to give us any evidence of a different nature from the evidence which has already been given? Because you will remember that we have in the French document, of which we shall take judicial notice—a very large French document; I forget the number, 321 I believe it is, Document Number RF-321; we have a very large volume of evidence on the conditions in concentration camps. Is the witness you are going to call going to prove anything fresh?

M. DUBOST: Your Honors, the witness whom we are going to call is to testify to a certain number of experiments which he witnessed. He has even submitted certain documents.

THE PRESIDENT: Are these experiments about which the witness is going to speak all recorded, in the Document Number RF-321?

M. DUBOST: They are referred to, but not reported in detail. Moreover, in view of the importance attached to statements of witnesses in the French presentation concerning the camps, I shall considerably curtail my work and will dispense with reading the documentary evidence, a large amount of which I shall merely submit after these witnesses have been heard.

THE PRESIDENT: You may call the witness, but try not to let him be too long.

M. DUBOST: I shall do my best, Mr. President.

[The witness, Dr. Alfred Balachowsky, took the stand.]

THE PRESIDENT: What is your name?

DR. ALFRED BALACHOWSKY (Witness): Alfred Balachowsky.

THE PRESIDENT: Are you French?

BALACHOWSKY: French.

THE PRESIDENT: Will you take this oath? Do you swear to speak without hate or fear, to say the truth, all the truth, only the truth?

[The witness repeated the oath in French.]

Raise your right hand and swear.

BALACHOWSKY: I swear.

THE PRESIDENT: You may sit if you wish.

M. DUBOST: Your name is Balachowsky, Alfred B-a-l-a-c-h-o-w-s-k-y?

BALACHOWSKY: That is correct.

M. DUBOST: You are head of a laboratory at the Pasteur Institute in Paris?

BALACHOWSKY: That is correct.

M. DUBOST: Your residence is at Viroflay? You were born 15 August 1909 at Korotcha in Russia?

BALACHOWSKY: That is correct.

M. DUBOST: You are French?

BALACHOWSKY: Yes.

M. DUBOST: By birth?

BALACHOWSKY: Russian by birth, French by naturalization.

M. DUBOST: When were you naturalized?

BALACHOWSKY: 1932.

M. DUBOST: Were you deported on 16 January 1944 after being arrested on 2 July 1943, and were you 6 months in prison first at Fresnes, then at Compiègne? Were you then transferred to the Dora Camp?

BALACHOWSKY: That is correct.

M. DUBOST: Can you tell us rapidly what you know about the Dora Camp?

BALACHOWSKY: The Dora Camp is situated 5 kilometers north of the town of Nordhausen, in southern Germany. This camp was considered by the Germans as a secret detachment, a Geheim-kommando, which prisoners who were kept there could never leave.

This secret detachment had as its task the manufacture of V-1's and V-2's—the "Vergeltungswaffen" (reprisal weapons)—the aerial torpedoes which the Germans launched on England. That is why

Dora was a secret detachment. The camp was divided into two parts: one outer part contained one-third of the total number of persons in the camp, and the remaining two-thirds were concentrated in the underground factory. Dora, consequently, was an underground factory for the manufacture of V-1's and V-2's. I arrived at Dora on 10 February 1944, coming from Buchenwald.

M. DUBOST: Please speak more slowly. You arrived at Dora from Buchenwald on . . . ?

BALACHOWSKY: On 10 February 1944, that is at a time when life in the Dora Camp was particularly hard.

On 10 February we were loaded, 76 men, onto a large German lorry. We were forced to crouch down, four SS guards occupying the seats at the front of the lorry. As we could not all crouch down, being too many, whenever a man raised his head he got a blow with a rifle butt, so that in the course of our 4-hour journey several of us were injured.

After our arrival at Dora, we spent a whole day and night without food, in the cold, in the snow, waiting for all the formalities of registration in the camp—completing forms, with names and surnames, and so on.

In comparison with Buchenwald, we found a considerable change at Dora, as the general management of the Dora Camp was entrusted to a special category of prisoners who were criminals. These criminals were our block leaders, served our soup, and looked after us. In contrast to the political prisoners who wore a red triangular badge, these criminals were distinguished by a green triangular badge on which was a black S. We called them the "S" men (Sicherheitsverband). They were people convicted of crimes by German courts long before the war, but who, instead of being sent home after having served their terms, were kept for life in concentration camps to supervise the other prisoners. Needless to say prisoners of that kind, these criminals with the green triangles, were asocial elements. Sometimes they had been 5, 10, even 20 years in prison, and afterwards, 5 or 10 years in concentration camps. These asocial outcasts no longer had any hope of ever getting out of the concentration camps. These criminals, however, thanks to the support and co-operation they were offered by the SS management of the camp, now had the chance of a career. This career consisted in stealing from and robbing the other prisoners, and obtaining from them the maximum output demanded by the SS. They beat us from morning till night. We got up at 4 o'clock in the morning and had to be ready within 5 minutes in the underground dormitories where we were crammed, without ventilation in foul air, in blocks about as large as this room, into which 3,000 to 3,500 internees were crowded. There were five tiers of bunks

with rotting straw mattresses. Fresh ones were never issued. We were given 5 minutes in which to get up, for we went to bed completely dressed. We were hardly able to get any sleep, for there was a continuous coming and going, and all sorts of thefts took place among the prisoners. Furthermore, it was impossible to sleep because we were covered with lice; the whole Dora Camp swarmed with vermin. It was virtually impossible to get rid of the lice. In 5 minutes we had to be in line in the tunnel and march to a given place.

THE PRESIDENT: *[To the witness]* Just a minute, please. M. Dubost, you said you were going to call this witness upon experiments. He is now giving us all the details of camp life which we have already heard on several occasions.

M. DUBOST: So far nobody has spoken about the Dora Camp, Mr. President.

THE PRESIDENT: Yes, but every camp we have heard of has got the same sort of brutalities, hasn't it, according to the witnesses who have been called?

You were going to call this witness because he was going to deal with experiments.

M. DUBOST: If the Tribunal is convinced that all the camps had the same regime, then my point has been proved and the witness will now testify to the experiments at the Buchenwald Camp. However, I wanted to show that all German camps were the same. I think this has now been proved.

THE PRESIDENT: If you were going to prove that, you would have to call a witness from every camp, and there are hundreds of them.

M. DUBOST: This question has to be proved because it is the uniformity of the system which establishes the culpability of these defendants. In every camp there was one responsible person who was the camp commander. But we are not trying the camp commander, but the defendants here in the dock and we are trying them for having conceived . . .

THE PRESIDENT: I have already pointed out to you that there has been practically no cross-examination, and I have asked you to confine this witness, as far as possible, to the question of experiments.

M. DUBOST: The witness will then confine himself to experiments at Buchenwald as this is the Tribunal's wish. The Tribunal will consider the uniformity of treatment in all German internment camps as proved.

[Turning to the witness] Will you now testify to the criminal practices of the SS Medical Corps in the camps, criminal practices in the form of scientific experiments?

BALACHOWSKY: I was recalled to Buchenwald the 1st of May 1944, and assigned to Block 50, which was actually a factory for the manufacture of vaccines against exanthematous typhus. I was recalled from Dora to Buchenwald, because, in the meantime, the management of the camp had learned that I was a specialist in this sort of research, and consequently they wished to utilize my services in Block 50 for the manufacture of vaccines. However, I was unaware of it until the very last moment.

I came to Block 50 on the 1st of May 1944, and I stayed there until the liberation of the camp on the 11th of April 1945.

Block 50, which was the block where vaccines were manufactured, was under Sturmbannführer Schuler, who was a doctor with the rank of a Sturmbannführer, equal to SS major. He was in charge of the block and was responsible for the manufacture of the vaccines. This same Sturmbannführer Schuler was also in charge of another block in the Buchenwald Camp. This other block was Block 46, the infamous block for experiments, where the internees were utilized as guinea pigs.

Blocks 46 and 50 were both run by one office; it was the "Geschäftszimmer." All archives, index cards pertaining to the experiments—as well as Block 50, were sent to the Geschäftszimmer, that is, to the office of Block 50.

The secretary of Block 50 was an Austrian political prisoner, my friend, Eugene Kogon. He and a few other comrades had, consequently, opportunities of looking through all the archives of which they had charge. Therefore they were able to know, day by day, exactly what went on either in Block 50, our block, or in Block 46. I myself was able to get hold of most of the archives of Block 46, and even the book in which the experiments were recorded has been saved. It is in our possession, and has been forwarded to the Psychological Service of the American Forces.

In this book all experiments are entered which were made in Block 46. Block 46 was established in October 1941 by a high commission subordinate to the medical service of the Waffen SS; and we see as members of its administrative council, a certain number of names, for this Block 46 came under the Research Section Number 5 (Versuchsabteilung Number 5 of Leipzig) of the Supreme Command of the Waffen SS. Inspector Mrugowski, Obergruppenführer of the Waffen SS, was in charge of this section. The administrative council which set up Block 46 was composed of the following members:

Dr. Genzken, Obergruppenführer (the highest rank in the Waffen SS); Dr. Poppendiek, Gruppenführer of the Waffen SS; and finally we see among these names also that of Dr. Handloser of the Wehrmacht and of the Military Academy of Berlin, who was also associated with the initiation of experiments on human beings.

Thus, in this administrative council there were members of the SS, and also Dr. Handloser. The experiments proper were carried out by Sturmbannführer Schuler, but all the orders and directives concerning the different types of experiments, which I shall speak about to you, were issued by Leipzig, that is, by the Research Section (Versuchsabteilung) of the Waffen SS. So there was no personal initiative on the part of Schuler or the management of the camp.

As to the experiments, all orders came directly from the Supreme Command in Berlin. Among these experiments, which we could follow step by step (at least some of them) through the cards, the results, the registration number of people admitted to and discharged from Block 46, were, first of all, numerous exanthematous typhus experiments; second, experiments on phosphorus burns; third, experiments on sexual hormones; fourth, experiments on starvation edema or avitaminosis; finally, fifth, I can tell you of experiments in the field of forensic medicine. So we have five different types of experiments.

M. DUBOST: Were the men who were subjected to these experiments volunteers or not?

BALACHOWSKY: The human beings subjected to experiments were recruited, not only in the Buchenwald Camp, but also outside the camp. They were not volunteers; in most cases they did not know that they would be used for experiments until they entered Block 46. The recruitment took place among criminals, perhaps in order to reduce their large numbers in that way. But the recruitment was also carried out among political prisoners and I have to point out that recruits for Block 46 came also from Russian prisoners of war. Among the political prisoners and prisoners of war who were used for experimental purposes at Block 46, the Russians were always in the majority, for the following reasons:

Of all the prisoners who could exist in concentration camps it was the Russians who had the greatest physical resistance, which was obviously superior to that of the French or other people of western Europe. They could withstand hunger and ill-treatment, and, generally speaking, showed physical resistance in every respect. For this particular reason, Russian political prisoners were recruited for experiments in greater numbers than others. However, there were people of other nationalities among them, particularly

French. I should now like to deal with details of the experiments themselves.

M. DUBOST: Do not go too much into details, because we are not specialists. It will suffice us to know that these experiments were carried out without any regard to humanity and on nonvoluntary subjects. Will you please describe to us the atrocious character of these experiments and their results.

BALACHOWSKY: The experiments carried out in Block 46 did without doubt serve a medical purpose, but for the greater part they were of no service to science. Therefore, they can hardly be called experiments. The men were used for observing the effects of drugs, poisons, bacterial cultures, *et cetera*. I take, as an example, the use of vaccine against exanthematous typhus. To manufacture this vaccine it is necessary to have bacterial cultures of typhus. For experiments such as are carried out at the Pasteur Institute and the other similar institutes of the world, cultures are not necessary as typhus patients can always be found for samples of infected blood. Here it was quite different. From the records and the chart you have in hand, we could ascertain in Block 46 12 different cultures of typhus germs, designated by the letter BU, (meaning Buchenwald) and numbered Buchenwald 1 to Buchenwald 12. A constant supply of these cultures was kept in Block 46 by means of the contamination of healthy individuals through sick ones; this was achieved by artificial inoculation of typhus germs by means of intravenous injections of 0.5 to 1 cubic centimeter of infected blood drawn from a patient at the height of the crisis. Now, it is well-known that artificial inoculation of typhus by intravenous injection is invariably fatal. Therefore all these men who were used for bacterial culture during the whole time such cultures were required (from October 1942 to the liberation of the camp) died, and we counted 600 victims sacrificed for the sole purpose of supplying typhus germs.

M. DUBOST: They were literally murdered to keep typhus germs alive?

BALACHOWSKY: They were literally murdered to keep typhus germs alive. Apart from these, other experiments were made as to the efficacy of vaccines.

M. DUBOST: What is this document?

BALACHOWSKY: This document contains a record of the typhus cultures.

M. DUBOST: This document was taken by you from the camp?

BALACHOWSKY: Yes, I took this document from the camp, and its contents were summarized by me in the experiment book of Block 46.

M. DUBOST: Is this the document you handed to us?

BALACHOWSKY: We have actually made a more complete document—which is in the possession of the American Psychological Service—as we have the entire record, and this represents only one page of it.

M. DUBOST: I ask the Tribunal to take note that the French Prosecution submits this document, Document Number RF-334, as appendix to the testimony of Dr. Balachowsky.

BALACHOWSKY: *[Continuing]* In 1944, experiments were also made on the effects of vaccines. One hundred and fifty men lost their lives in these experiments. The vaccines used by the German Army were not only those manufactured in our Block 46, but also ones which came from Italy, Denmark, Poland, and the Germans wanted to ascertain the value of these different vaccines. Consequently, in August 1944 they began experiments on 150 men who were locked up in Block 46.

Here, I should like to tell you how this Block 46 was run. It was entirely isolated and surrounded by barbed wire. The internees had no roll call and no permission to go out. All the windows were kept closed, the panes were of frosted glass. No unauthorized person could enter the block. A German political prisoner was in charge of the Block. This German political prisoner was Kapo Dietzsch, an asocial individual who had been in prisons and in camps for 20 years and who worked for the SS. It was he who gave the injections and the inoculations and who executed people upon order. Strangely enough, there were weapons in the block, automatic pistols, and hand grenades, to quell any possible revolt, either outside or inside the block.

I can also tell you that an order slip for Block 46, sent to the office (Geschäftszimmer) at Block 50 in January 1945, mentioned three strait jackets to be used for those who refused to be inoculated.

Now I come back to the typhus and vaccine experiments. You will see how they were carried out.

The 150 prisoners were divided into 2 groups: those who were to be used as tests and those who were to be the subjects. The latter only received (ordinary) injections of the different types of vaccines to be tested. Those used for testing were not given any injections. Then, after the vaccination of the subjects, inoculations were given (always by means of intravenous injections) to everybody selected for this experiment, those for testing as well as the subjects. Those used for tests died about two weeks after the inoculation—as such is approximately the period required before the disease develops to its fatal issue. As for the others, who

received different kinds of vaccines, their deaths were in proportion to the efficacy of the vaccines administered to them. Some vaccines had excellent results, with a very low death rate—such was the case with the Polish vaccines. Others, on the contrary, had a much higher death rate. After the conclusion of the experiments, no survivors were allowed to live, according to the custom prevailing in Block 46. All the survivors of the experiments were "liquidated" and murdered in Block 46, by the customary methods which some of my comrades have already described to you, that is by means of intracardiac injections of phenol. Intracardiac injections of 10 cubic centimeters of pure phenol was the usual method of extermination in Buchenwald.

THE PRESIDENT: We are not really concerned here with the proportion of the particular injections.

BALACHOWSKY: Will you repeat that please?

THE PRESIDENT: As I have said, we are not really concerned here with the proportions in which these injections were given, and will you kindly not deal with these details?

M. DUBOST: You might try and confine the witness.

BALACHOWSKY: *[Continuing]* Then I will speak of other details which may interest you. They are experiments of a psychotherapeutic nature, utilization of chemical products to cure typhus, in Block 46, under the same conditions as before. German industries co-operated in these experiments, notably the I. G. Farben Industrie which supplied a certain number of drugs to be used for experiments in Block 46. Among the professors who supplied the drugs, knowing that they would be used in Block 46 for experimental purposes, was Professor Lautenschläger of Frankfurt. So much for the question of typhus.

I now come to experiments with phosphorus, particularly made on prisoners of Russian origin. Phosphorus burns were inflicted in Block 46 on Russian prisoners for the following reason. Certain bombs dropped in Germany by the Allied aviators caused burns on the civilians and soldiers which were difficult to heal. Consequently, the Germans tried to find a whole series of drugs which would hasten the healing of the wounds caused by these burns. Thus, experiments were carried out in Block 46 on Russian prisoners who were artificially burned with phosphorus products and then treated with different drugs supplied by the German chemical industry.

Now as to experiments on sexual hormones . . .

M. DUBOST: What were the results of these experiments?

BALACHOWSKY: All these experiments resulted in death.

M. DUBOST: Always in death? So each experiment is equivalent to a murder for which the SS are collectively responsible?

BALACHOWSKY: For which those who established this institution are responsible.

M. DUBOST: That is the SS as a whole, and the German medical corps in particular?

BALACHOWSKY: Definitely so, as the orders came from the Versuchsabteilung 5 (Research Section 5). The SS were responsible as the orders were issued by that section at Leipzig and, therefore, came from the Supreme Command of the Waffen SS.

M. DUBOST: Thank you. What were the results of the experiments made on sexual hormones?

BALACHOWSKY: They were less serious. Besides, these were ridiculous experiments from the scientific point of view. There were, at Buchenwald, a number of homosexuals, that is to say, men who had been convicted by German tribunals for this vice. These homosexuals were sent to concentration camps, especially to Buchenwald, and were mixed with the other prisoners.

M. DUBOST: Especially with the so-called political prisoners, who in reality were patriots?

BALACHOWSKY: With all kinds of prisoners.

M. DUBOST: All were in the company of these German inverts?

BALACHOWSKY: Yes. They wore a pink triangle to distinguish them.

M. DUBOST: Was the wearing of this triangle a well-established custom, or on the contrary, was there much confusion in classification?

BALACHOWSKY: At the very first, before my arrival, from what I heard, order was kept with respect to triangular badges; but when I arrived at Buchenwald, in January of 1944, there was the greatest confusion in the badges, and many prisoners wore no badge at all.

M. DUBOST: Or did they wear badges of a category different from their own?

BALACHOWSKY: Yes, this was the case with many Frenchmen, who were sent to Buchenwald because they were ordinary criminals and who finally wore the red triangle of political prisoners.

M. DUBOST: What was the color of the triangle worn by the ordinary German criminals?

BALACHOWSKY: They had a green triangle.

M. DUBOST: Did they not wear eventually a red triangle?

BALACHOWSKY: No, because they had more privileges than the others and they wore the green triangle distinctly.

M. DUBOST: And in the working groups?

THE PRESIDENT: We have heard that they were all mixed up.

M. DUBOST: The fact will not have escaped the Tribunal that these questions are put to counter other questions which were asked this morning by the Counsel for the Defense with the intent to confuse not the Tribunal, but the witnesses.

BALACHOWSKY: I repeat that we had a complete conglomeration of nationalities and categories of prisoners.

THE PRESIDENT: That is exactly what he said, that these triangles were completely mixed up.

M. DUBOST: I think, that the statement by this second witness will definitively enlighten the Tribunal on this point, whatever the efforts of the Defense might be to mislead us.

[Turning to the witness] Do you know anything about the fate of tattooed men?

BALACHOWSKY: Yes, indeed.

M. DUBOST: Will you please tell us what you know about them?

BALACHOWSKY: Tattooed human skins were stored in Block 2, which was called at Buchenwald the Pathological Block.

M. DUBOST: Were there many tattooed human skins in Block 2?

BALACHOWSKY: There were always tattooed human skins in Block 2. I cannot say whether there were many, as they were continuously being received and passed on, but there were not only tattooed human skins, but also tanned human skins—simply tanned, not tattooed.

M. DUBOST: Did they skin people?

BALACHOWSKY: They removed the skin and then tanned it.

M. DUBOST: Will you continue your testimony on that point?

BALACHOWSKY: I saw SS men come out of Block 2, the Pathological Block, carrying tanned skins under their arms. I know, from my comrades who worked in Pathological Block 2, that there were orders for skins; and these tanned skins were given as gifts to certain guards and to certain visitors, who used them to bind books.

M. DUBOST: We were told that Koch, who was the head at that time, was sentenced for this practice.

BALACHOWSKY: I was not a witness of the Koch affair, which happened before I came to the camp.

M. DUBOST: So that even after he left there were still tanned and tattooed skins?

BALACHOWSKY: Yes, there were constantly tanned and tattooed skins, and when the camp was liberated by the Americans,

they found in the camp, in Block 2, tattooed and tanned skins on 11 April 1945.

M. DUBOST: Where were these skins tanned?

BALACHOWSKY: These skins were tanned in Block 2, and perhaps also in the crematorium buildings, which were not far from Block 2.

M. DUBOST: Then, according to your testimony, it was a customary practice which continued even after Koch's execution?

BALACHOWSKY: Yes, this practice continued, but I do not know to what extent.

M. DUBOST: Did you witness any inspections made at the camp by German officials, and if so, who were these officials?

BALACHOWSKY: I can tell you something about Dora, concerning such visits.

M. DUBOST: Excuse me, I have one more thing to ask you about the skins. Do you know anything about Koch's conviction?

BALACHOWSKY: I heard rumors and remarks about Koch's conviction from my old comrades, who were in the camp at that time. But I personally was not a witness of the affair.

M. DUBOST: Never mind. It is enough for me to know that after his conviction skins were still tanned and tattooed.

BALACHOWSKY: Exactly.

M. DUBOST: You expressly state it?

BALACHOWSKY: Absolutely. Even after his conviction, tanned and tattooed skins were still seen.

M. DUBOST: Will you tell us now what visits were made to the camp by German officials, and who these officials were?

BALACHOWSKY: Contacts between the outside—that is German civilians and even German soldiers—and the interior of the camp were made possible by departures and furloughs that some political prisoners were able to obtain from the SS in order to spend some time with their families; and, vice versa, there were visits to the camp by members of the Wehrmacht. In Block 50 we had a visit of Luftwaffe cadets. These Luftwaffe cadets, members of the regular German armed forces, passed through the camp and were able to see practically everything that went on there.

M. DUBOST: What did they do in Block 50?

BALACHOWSKY: They just came to see the equipment at the invitation of Sturmbannführer Schuler. We received several visits.

M. DUBOST: What was the equipment?

BALACHOWSKY: Equipment for the manufacture of vaccines, laboratory equipment.

M. DUBOST: Thank you.

BALACHOWSKY: There were other visits also, and some German Red Cross nurses visited that block in October 1944.

M. DUBOST: Do you know the names of German personalities who visited the camp?

BALACHOWSKY: Yes, such personalities as the Crown Prince of Waldeck and Pyrmont, who was an Obergruppenführer of the Waffen SS and the Chief of Police of Hesse and Thuringia, who visited the camp on several occasions, including Block 46 as well as Block 50. He was greatly interested in the experiments.

M. DUBOST: Do you know what the attitude of mind of the prisoners was shortly before their liberation by the American forces?

BALACHOWSKY: The prisoners of the camp expected the liberation to come at any moment. On the 11th of April, in the morning, there was perfect order in the camp and exemplary discipline. We hid, with extreme difficulty and in the greatest secrecy, some weapons: cases of hand grenades, and about two hundred and fifty guns which were divided in 2 lots, 1 lot of 100 guns in the hospital, and another lot of about one hundred and fifty guns in my Block 50. As soon as the Americans began to appear below the camp of Buchenwald, about 3 o'clock in the afternoon of the 11th of April 1945, the political prisoners assembled in line, seized the weapons and made prisoners of most of the SS guards of the camp or shot all those who resisted. These guards had great difficulty in escaping as they carried rucksacks filled with booty—objects they had stolen from the prisoners during the time they guarded the camp.

M. DUBOST: Thank you. I have no further questions to put to the witness.

THE PRESIDENT: We will adjourn now for ten minutes.

[A recess was taken.]

THE PRESIDENT: Do any of the defendants' counsel want to ask any questions of this witness?

DR. KAUFFMANN: Are you a specialist in research concerning the manufacture of vaccines?

BALACHOWSKY: Yes, I am a specialist in matters of research.

DR. KAUFFMANN: According to your opinion, was there any sense in the treatment to which these people were subjected?

BALACHOWSKY: It had no scientific significance; it only had a practical purpose. I permitted the verification of the efficacy of certain products.

DR. KAUFFMANN: You must have your own opinion, as you were in contact with these men. Did you really see these people?

BALACHOWSKY: I saw these people at very close hand, since in Block 50 I was in charge of a part of this manufacture of vaccine. Consequently, I was quite able to realize what kind of experiments were being made in Block 46 and the reasons for these experiments. Further, I also realized the almost complete inefficiency of the SS doctors and how easy it was for us to sabotage the vaccine for the German Army.

DR. KAUFFMANN: Now, these people must have gone through much misery and suffering before they died.

BALACHOWSKY: These people certainly suffered terribly, especially in the case of certain experiments.

DR. KAUFFMANN: Can you certify that through your own experience, or is that just hearsay?

BALACHOWSKY: I saw in Block 50 photographs taken in Block 46 of phosphorus burns, and it was not necessary to be a specialist to realize what these patients, whose flesh was burned to the bone, must have suffered.

DR. KAUFFMANN: Then, your conscience certainly revolted at these things.

BALACHOWSKY: Absolutely.

DR. KAUFFMANN: Well then, I would like to ask you, how your conscience allowed you to obey orders to help these people in some way?

BALACHOWSKY: That is quite simple. When I arrived at Buchenwald as a deportee, I did not hide my qualifications. I simply specified that I was a "laborant"—that is a man who is trained in laboratory work, but who has no special definite qualification. I was sent to Dora, where the SS regime made me lose 30 kilos in weight in two months. I became anaemic . . .

DR. KAUFFMANN: Witness, I am just concerned with Buchenwald. I do not wish to know anything about Dora. I ask you . . .

BALACHOWSKY: It was the prisoners at Buchenwald who, by their connections within the camp, were the cause of my return to the Buchenwald Camp. It was M. Julien Cain, a Frenchman, the Director of the French National Library, who called my presence to the attention of a German political prisoner, Walter Kummelschein, who was a secretary in Block 50. He drew attention to my

presence without my knowing it and without my having spoken in Dora of being a French specialist. That is the reason why the SS called me back from Dora to work in Block 50.

DR. KAUFFMANN: Please pardon the interruption. We do not wish to elaborate too much on these matters. I believe everything that you have just said is true—the reason why you were sent to Dora and why you were sent back to Buchenwald—but my point is a completely different one. I would like to ask you once more: You knew that these men were practically martyrs. Is that correct? Please answer yes or no.

BALACHOWSKY: I will answer the question. When I arrived at Block 50 I knew nothing, either of the Block 50 or of the experiments. It was only later when I was in Block 50, that little by little, and through the acquaintances I was able to make in the block, I found out the details of the experiments.

DR. KAUFFMANN: Very well. And after you had learned about the details of the experiments, as you were a doctor, did you not feel great pity for these poor creatures?

BALACHOWSKY: My pity was very great, but it was not a question of having pity or not; one had to carry out to the letter the orders that were given, or be killed.

DR. KAUFFMANN: Very well. Then you are stating that if in any way you had not followed the orders that you had received you might have been killed? Is that right?

BALACHOWSKY: There is no doubt about that. On the other hand, my work consisted in manufacturing vaccine, and neither I nor any other prisoners in Block 50 could ever enter Block 46 and actually witness experiments. We knew what went on concerning the experiments only through the index cards which were sent from Block 46 to be officially registered in Block 50.

DR. KAUFFMANN: Very well, but I do not think it makes any difference to one's conscience whether one sees suffering with one's own eyes, or whether one has direct knowledge that in the same camp people are being murdered in such a way. Now, I come to another question.

THE PRESIDENT: Was that a question you were putting there? Will you confine yourself to questions.

BALACHOWSKY: I beg your pardon. I should like to answer the last question.

DR. KAUFFMANN: That was not a question. I will put another question now.

BALACHOWSKY: I should like to reply to this remark then.

DR. KAUFFMANN: I am not interested in your answer.

BALACHOWSKY: I am anxious to give it.

THE PRESIDENT: Answer the question, please.

BALACHOWSKY: Suffering was everywhere in the camps, and not only in the experimental blocks. It was in the quarantine blocks; it was among all the men who died every day by the hundreds. Suffering reigned everywhere in the concentration camps.

DR. KAUFFMANN: Were there any injunctions that there was to be no talk about these experiments?

BALACHOWSKY: As a rule the experiments were kept absolutely secret. An indiscreet remark with regard to the experiments might entail immediate death. I must add that there were very few of us who knew the details of these experiments.

DR. KAUFFMANN: You mentioned visits to this camp, and you also mentioned that German Red Cross nurses, and members of the Wehrmacht visited the camp, and that furloughs were granted to political prisoners. Were you ever present at one of these visits inside the camp?

BALACHOWSKY: Yes, I was present at the visits inside the camp of which I spoke.

DR. KAUFFMANN: Did the visitors at this camp see that cardiac injections were being given? Or did the visitors see that human skin was tanned? Did those visitors witness any ill-treatment?

BALACHOWSKY: I cannot answer this question in the affirmative, and I can say only that visitors passed through my block. One had to pass almost through the entire camp. I do not know where the visitors went either before or after visiting my block.

DR. KAUFFMANN: Did one of your own comrades tell you perhaps whether the visitors personally saw these excesses? Yes or no.

BALACHOWSKY: I do not understand the question. Would you mind repeating it?

DR. KAUFFMANN: Did perhaps one of your comrades tell you that the visitors at the camp were present at these excesses?

BALACHOWSKY: I never heard that visitors were present at experiments or witnessed excesses of that kind. The only thing I can say, concerning the tanned skins is that I saw, with my own eyes, SS noncommissioned officers or officers—I cannot remember exactly whether they were officers or noncommissioned officers—come out of Block 2, carrying tanned skins under their arms. But these were SS men; they were not visitors to the camp.

DR. KAUFFMANN: Did these visitors, and in particular Red Cross nurses, know that these experiments were medically completely worthless, or did they just wish to inspect the laboratories and the equipment?

BALACHOWSKY: I repeat again that these visitors came to my laboratory section, where they saw what was being done, that is, the sterilized filling of the phials. I cannot say what they saw before or after. I know only that these visitors of whom I am speaking, the Luftwaffe cadets or the Red Cross people, visited the whole installation of the block. They certainly knew, however, what was the source of this culture, and that men might be used for experiments, as there were charts and graphs showing the stages of cultures originating with men; but it could have been from blood initially taken from typhus patients and not necessarily from patients artificially inoculated with typhus.

I really think that these visitors did not generally know about the atrocities in the form of experiments that were being performed in Block 46, but it was impossible for visitors who went into the camp not to see the horrible conditions in which the prisoners were kept.

DR. KAUFFMANN: Do you perhaps know whether people who received leave, that is, inmates who temporarily were permitted to leave the camp, were permitted to speak about their experiences inside the camp and relate these experiences to the outside world?

BALACHOWSKY: All the concentration camps were, after all, vast transit camps. The inmates were constantly changing, passing from one camp to another, coming and going. Consequently there were always new faces. But most of the time, apart from those whom we knew before our arrest, or a few other comrades, we knew nothing about those who came and went.

DR. KAUFFMANN: Perhaps I did not express myself clearly. I mean the following: As you said before, political prisoners were permitted to leave the camp temporarily from time to time. Did these inmates know about these excesses, and if they did know, were they permitted to speak about these experiments in the rest of Germany?

BALACHOWSKY: The political prisoners (very few and all of German nationality) who ever obtained leave were prisoners whom the SS had entrusted with important posts in the camp and who had been imprisoned for at least 10 years in the camp. This was so, for instance, in the case of Karl, the Kapo, head of the canteen of the Buchenwald Camp, the canteen of the Waffen SS, who was responsible for the canteen. He was given a fortnight's leave to visit his family at his home in the town of Zeitz. Consequently this

Kapo was free for 10 days and was able to tell his family anything he wanted to; but I do not know, of course, what he did. What I can say is that obviously he had to be careful. In any case, the prisoners who were allowed to leave the camp were old inmates, as I have said, who knew approximately everything that was going on, including the experiments.

DR. KAUFFMANN: Now, one last question. If I assume that the people you just described told anything to members of their families, even on the pledge of secrecy, and the leaders of the camp came to know of these indiscretions, do you not believe that the death penalty might have been incurred?

BALACHOWSKY: If there were indiscretions of that kind on the part of the family (for such indiscretions may be repeated among one's acquaintances), or at least, if such indiscretions came to the knowledge of the SS, it is obvious that those prisoners risked the death penalty.

DR. KAUFFMANN: Thank you very much.

THE PRESIDENT: Is there any other Defense Counsel who wants to ask any questions?

HERR BABEL: I protest against the prosecutor's declaration that I tried to confuse witnesses with my questions. I am not here to worry about the good opinion or otherwise of the press, but to do my duty as a defense attorney . . .

THE PRESIDENT: You are going too fast.

HERR BABEL: *[Continuing]* . . . and I am of the opinion that things should not be made more difficult by anyone taking part in this Trial—not even the press.

This war has brought me so much misfortune and sorrow that I have no reason to vindicate anyone who was responsible for this personal suffering or for the misfortune that fell on all our people. I will not try to prevent any such person from receiving his proper punishment. I am concerned only with helping the Tribunal to determine the truth, so that just sentences may be pronounced, and that innocent people may not be condemned.

THE PRESIDENT: Kindly resume your seat. It is not fit for you to make a speech. You have been making a speech, as I understood it; this is not the occasion for it.

HERR BABEL: I find it necessary because I was not protected against the Prosecution's reproach.

[Herr Babel left the stand to resume his seat.]

THE PRESIDENT: One moment; come back. I do not know what you mean about not being protected. Well! Listen to me. I

don't know what you mean by not being protected against the Prosecution. The Prosecution called this witness and the defendants' counsel had the fullest opportunity to cross-examine, and we understood you went to the Tribunal for the purpose of cross-examining the witness. I do not understand your protest.

HERR BABEL: Your Honor, unfortunately I do not know the court procedure customary in England, America, and other countries. According to the German penal code and to German trial regulations, it is customary that unjustified and unfounded attacks of this kind made against a participant of a trial are rejected by the presiding judge. I therefore expected that perhaps this would be done here too, but as it did not happen, I took the occasion to.... If by doing so, I violated the rules of court procedure, I beg to be excused.

THE PRESIDENT: What unjust accusations are you referring to?

HERR BABEL: The Prosecuting Attorney implied that I put questions to witnesses calculated to confuse them, in order to prevent the witnesses from testifying in a proper manner. This is an accusation against the Defense which is an insult to us, at least to myself—I do not know what the attitude of the other Defense Counsel is.

THE PRESIDENT: I am afraid I do not understand what you mean.

HERR BABEL: Your Honor, I am sorry. I think I cannot convince you as you probably do not know this aspect of German mentality, for our German regulations are entirely different. I do not wish to reproach our President in any way. I merely wanted to point out that I consider this accusation unjust and that I reject it.

THE PRESIDENT: Dr. Babel, I understand you are saying that the Prosecuting Attorney said something to you? Now, what is it you say the Prosecuting Attorney said to you?

HERR BABEL: The Prosecuting Attorney said that I wanted to confuse witnesses by my questions and, in my opinion that means I am doing something improper. I am not here to confuse witnesses, but to assist the Court to find the truth, and this cannot be done by confusing the witnesses.

THE PRESIDENT: I understand now. I do not think that the Prosecuting Attorney meant to make accusations against your professional conduct at all. If that is only what you wish to say, I quite understand the point you wish to make. Do you want to ask this witness any questions?

HERR BABEL: Yes, I have one question. *[Turning to the witness]* You testified that weapons, 50 guns, if I understood

correctly, were brought into either Block 46 or 50. Who brought these weapons in?

BALACHOWSKY: We, the prisoners, brought them in and hid them.

HERR BABEL: For what purpose?

BALACHOWSKY: To save our skins.

HERR BABEL: I did not understand you.

BALACHOWSKY: I said that we hid these guns because we meant to sell our lives dearly at the last moment—that is, to defend ourselves to the death rather than be exterminated, as were most of our comrades in the camps, with flame-throwers and machine guns. In that case we would have defended ourselves with the guns we had hidden.

HERR BABEL: You said "we prisoners"; who were these prisoners?

BALACHOWSKY: The internees inside the camp.

HERR BABEL: What internees?

BALACHOWSKY: We, the political prisoners.

HERR BABEL: They were supposed to have been mostly German concentration camp prisoners?

BALACHOWSKY: They were of all nationalities. Unknown to the SS, there was an international secret defense organization with shock battalions within the camp.

HERR BABEL: There were German concentration camp prisoners who wanted to help you?

BALACHOWSKY: German prisoners also belonged to these shock battalions—German political prisoners, and in particular former German Communists who had been imprisoned for 10 years and who were of great help towards the end.

HERR BABEL: Very well, that's what I wanted to know. Then, with the exception of the criminal who wore the green triangle, you and the other inmates, even these of German origin, were on friendly terms and helped each other; is that right?

BALACHOWSKY: The question of the "greens" did not arise, because the SS evacuated the "greens" in the last few days before the liberation of the camp. They exterminated most of them; in any case they left the camp, and we do not know what became of them. No doubt some are still hiding among the German population.

HERR BABEL: My question did not refer to those with the green badges, but to your relations with the German political prisoners.

BALACHOWSKY: The political prisoners, whether they were German, French, Russian, Dutch, Belgian or. from Luxembourg, formed inside the camp secret shock battalions which took up arms at the last minute, and took part in the liberation of the camp. The arms that were hidden came from the Gustloff armament factory, which was located near the camp. These arms were stolen by the workers employed in this factory, who every day brought back with them either a butt hidden in their clothes, or a gun barrel, or a breech. And, in secret, with much difficulty, the guns were assembled from the different pieces and hidden. These were the guns we used in the last days of the camp.

HERR BABEL: Thank you. I have no further questions.

THE PRESIDENT: Does any other German counsel wish to ask questions? Have you any questions, M. Dubost?

M. DUBOST: I have no further questions, Your Honor.

THE PRESIDENT: Then the witness can retire.

[The witness left the stand.]

M. DUBOST: These two days of testimony will obviate my reading the documents any further, since it seems established in the eyes of the Tribunal, that the excesses, ill-treatment, and crimes which our witnesses have described to you, occurred repeatedly and were identical in all the camps; and therefore are evidence of a higher will originating in the government itself, a systematic will of extermination and terror under which all occupied Europe had to suffer.

Therefore I shall submit to you only, without reading them, the documents we have collected, and confine myself to a brief analysis whenever they might give you. . .

THE PRESIDENT: M. Dubost, you understand, of course, that the Tribunal is satisfied with the evidence which it has heard up to date; but, of course, it is expecting to hear evidence, or possibly may hear evidence, from the defendants; and it naturally will suspend its judgment until it has heard that evidence and, as I pointed out to you yesterday, I think, under Article 24e of the Charter, you will have the opportunity of applying to the Tribunal, if you think it right to call rebuttal evidence in answer to any evidence which the defendants may call. All I mean to indicate to you now is that the Tribunal is not making up its mind at the present moment. It will wait until it has heard the evidence for the Defense.

M. DUBOST: I understand you, Mr. President, but I think that the evidence we submitted in the form of testimony during these 2 days constitutes an essential part of our accusation. It will allow

us to shorten the presentation of our documents, of which we shall simply submit an analysis or very brief extracts.

We had stopped at the description of the transports and under what conditions they were made, when we started calling our witnesses.

In order to establish who, among the defendants, are those particularly responsible for these transports, I present Document UK-56, signed by Jodl and ordering the deportation of Jews from Denmark. It appears in the first book of documents as Exhibit Number RF-335.

I will now continue presenting a question which was interrupted on Friday, when the session was suspended at 1700 hours. This Document Number UK-56 is a telegram transmitted *en clair* marked "Top Secret." It is the 8th in the first book. Its second paragraph reads as follows:

> "The deportation of Jews is to be carried out by the Reichsführer SS, who is to detail two police battalions to Denmark for this purpose.
>
> "Signed: Jodl."

Here we have the carrying out of a political act by a military organization or at least by a leader belonging to a military organization—the German General Staff. This charge therefore affects both Jodl and the German General Staff.

We submitted under Exhibit Number RF-324 (Document Number F-224), during the Friday afternoon session, an extract from the report of the Dutch Government. The Tribunal will find in this report a passage concerning the transport of Dutch Jews detained in Westerbork—which I quote, Paragraph 2:

> "All Jewish Netherlanders, whom the Germans could lay their hands on . . . were brought together here . . . ."—Paragraph 3—"Gradually all those interned in Westerbork were deported to Poland."

Is it necessary to recall the consequences of these transports, carried out in the conditions described to you, when witnesses have come to tell you that each time the cars were opened numerous corpses had first to be taken out before a few survivors could be found?

The French Document Number F-115 (Exhibit Number RF-336), is the report of Professor Richet. In it Professor Richet repeats what our witnesses have said, that there were 75 to 120 deportees in each car. In every transport men died. The fact is known that on arriving in Buchenwald from Compiègne, after an average journey of 60 hours, at least 25 percent of the men had succumbed. This testimony corroborates those of Blaha, Madame Vaillant-Couturier and Professor Dupont.

Blaha's testimony appears in your document book under the Number 3249-PS. It is the second statement of Blaha. We have heard Blaha. I do not think it necessary to read what he has already stated to us.

Especially infamous is the transport to Dachau, during the months of August and September 1944, when numerous trains which had left France, generally from the camps in Brittany, arrived at this camp with four to five hundred dead out of about two thousand men in a train. The first page of Document Number F-140 states—and I quote so as not to have to return to it again—in the fourth paragraph which deals with Auschwitz: "About seven million persons died in this camp." It repeats the conditions under which the transports were made and which Madame Vaillant-Couturier has described to you. On the train of 2 July 1944, which left from Compiègne, men went mad and fought with each other and more than six hundred of them died between Compiègne and Dachau. It is with this convoy that Document Number F-83 deals, which we submit as Exhibit Number RF-337, and which indicates in the minutes of Dr. Bouvier, Rheims, 20 February 1945—that these prisoners by the time they reached Rheims were already half-dead of thirst: "Eight dying men were taken out already at Rheims; one of them was a priest." This convoy was to go to Dachau. A few kilometers past Compiègne there were already numerous dead in every car.

Document F-32, Exhibit Number RF-331, Page 21, contains many other examples of the atrocious conditions under which our compatriots were transported from France to Germany:

> "At the station at Bremen water was refused us by the German Red Cross.
>
> "We were dying of thirst. At Breslau the prisoners again begged German Red Cross nurses to give us a little water. They took no notice of our appeals. . . ."

To prevent escape, in disregard of the most natural and elementary feelings of modesty, the deportees were forced in many convoys to strip themselves of all their clothes, and they travelled like that for many hours, entirely naked, from France to Germany. A testimony to this effect is given by our official document already submitted under Document Number RF-301:

> "One of the means used to prevent escapes, or as reprisal for them, was to unclothe the prisoners completely."—And the author of the report adds—"This reprisal was also aimed at the moral degradation of the individual."

The most restrained testimonies report that this crowding together of naked men barely having room to breathe, was a horrible sight. When escapes occurred in spite of the precautions, hostages were taken from the cars and shot. Testimony to this

effect is provided by the same document—five deportees were executed:

"That was how, near Montmorency, five deportees from the train of 15 August 1944 were buried, and five others of the same train were killed by pistol shots by German police and officers of the Wehrmacht at Domprémy (Marne)."

Added to this quotation is that of another official document, which we have already submitted under F-321, Exhibit Number 331:

"Several young men were rapidly chosen. The moment they reached the trench the policemen each seized a prisoner, pushed him against the side of the trench, and fired a pistol into the nape of his neck."

The same thing prevailed in deportations from Denmark. The Danish Jews were particularly affected. A certain number, warned in time, had been able to escape to Sweden with the help of Danish patriots. Unfortunately, eight to nine thousand persons were arrested by the Germans and deported. It is estimated that 475 of them were transported by boat and truck under inhuman conditions to Bohemia and Moravia to Theresienstadt. This is stated in the Danish document submitted under Document Number F-666, Exhibit Number RF-338.

In connection with this country it is necessary to inform the Tribunal of the deportation of the frontier guards:

"At most places, however, the policemen were dismissed as soon as they had been disarmed. Only in Copenhagen and in the large provincial towns were they retained, and partly by ship and partly by goods vans, taken southwards to Germany.

"The policemen were taken via Neuengamme to the concentration camp at Buchenwald. They were quartered there under indescribably insanitary conditions; a very large proportion of them were taken ill; about one hundred policemen and frontier guardsmen died and several still bear traces of the sojourn."

When these deportations had been carried out, all the citizens of the subjugated countries of the west of Europe found themselves in the company of their comrades of misfortune of the east, in the concentration camps of Germany. These camps were merely a means of realizing the policy of extermination which Germany had pursued ever since the National Socialists seized power. This policy of extermination would lead, according to Hitler, to installing 250 million Germans in Europe in the territories adjoining Germany, which constituted her vital space.

The police, the German Army, no longer dared to shoot their hostages, but neither of the two had any mercy on them. More

and more were transported in ever increasing numbers from 1943 to German concentration camps, where all means were used to annihilate them—from exhausting labor to the gas chambers.

Censuses taken at various times in France enable us to ascertain that there were more than 250,000 French deportees, of which only 35,000 returned. Document Number F-497, submitted as Exhibit Number RF-339, indicates that out of 600,000 arrests which the Germans made in France, 350,000 were carried out with a view to internment in France or in Germany:

"Total number deported, 250,000; number of deportees returned, 35,000."

On the following page are a few names of deported French personages.

"Prefects: M. Bussières, M. Bonnefoy, disappeared in the *Cap Arcona,* Generals: de Lestraing, executed at Dachau; Job, executed at Auschwitz; Frère, died at Struthof; Bardi de Fourtou died at Neuengamme; Colonel Roger Masse died at Auschwitz.

"High officials: Marquis of Moustier, died at Neuengamme; Bouloche, Inspector General of Roads and Bridges died at Buchenwald; his wife died at Ravensbrück, one of his sons died during deportation, his other son alone returned from Flossenbürg; Jean Devèze, engineer of roads and bridges, disappeared at Nordhausen; Pierre Block, engineer of roads and bridges, died at Auschwitz; Mme. Getting, founder of the social service in France, disappeared at Auschwitz.

"Among university professors, names well-known in France, such as: Henri Maspéro, Professor at the College de France, died at Buchenwald; Georges Bruhat, Director of the École Normale Supérieure, died at Oranienburg; Professor Vieille died at Buchenwald. . . ."

It is impossible to name each of the intellectuals exterminated by German fury. Among the doctors we must, however, mention the disappearance of the Director of the Rothschild Hospital and of Professor Florence, both murdered, one at Auschwitz, the other at Neuengamme.

As to Holland: 110,000 Dutch citizens of the Jewish faith were arrested, only 5,000 returned; 16,000 patriots were arrested, only 6,000 returned. Out of a total of 126,000 deportees, 11,000 were repatriated after the liberation.

In Belgium, there were 197,150 deportees, not including prisoners of war; including prisoners of war, 250,000.

In Luxembourg, 7,000 deportees—more than 700 were Jews. There were 4,000 Luxembourgers; out of these, 500 died.

In Denmark (Exhibit Number RF-338, Document Number F-666 already submitted) 6,104 Danes were interned; 583 died.

There were camps within and outside Germany. Most of the latter were used only for the sorting of prisoners, and I have already spoken about them. However, some of them functioned like those in Germany and among them, that of Westerbork in Holland must be mentioned. This camp is dealt with in Document Number F-224, already submitted under Exhibit Number RF-324, which is the official report of the Dutch Government. The camp of Amersfoort, also in Holland, is the subject of Document Number F-677, which will be submitted as Exhibit Number RF-344.

What we already know through direct testimony of the regime of the Nazi internment camps makes it unnecessary for me to read the whole report, which is rather voluminous, and which does not bring any noticeably new facts on the regime of these camps.

There is also the camp of Vught in Holland. Then in Norway the camps of Grini, of Falstad, of Vlven; that of Espeland, and that of Sydspissen, which are described in a document provided by the Norwegian Government—Document Number F-240, Exhibit Number RF-292, which we have already submitted. The Tribunal will excuse me for not reading this document, which does not give us any information that we have not heard before from the witnesses.

The camps inside Germany, like all those outside Germany which were not transit camps only, should be divided into three categories—which is in accordance with German instructions themselves which fell into our hands. You will find these instructions in your second document book, Page 11. The pages follow in regular order. It is Document Number 1063-PS, USA-492. We read:

> "The Reichsführer SS and Chief of the German Police has given his approval for the classification of the concentration camps into various categories which take into account the prisoner's character and the degree of danger which he represents to the State. Accordingly, the concentration camps will be classified in the following categories:
>
> "Category 1: For all prisoners accused of minor delinquencies. . . .
>
> "Category 1a: For aged prisoners and those able to work under only certain conditions.
>
> "Category 2: For prisoners with more serious charges, but still capable of re-education and improvement.
>
> "Category 3: For major offenders charged with particularly serious crimes. . . ."

On 2 January 1941, the date of this document, the German administration, in dividing the camps into three categories, made an enumeration of the principal German camps throughout Germany

in each category. It seems unnecessary to me to revert to the geographical location of these camps within Germany, since my American colleagues, with the help of geographical maps, have already dealt fully with this question.

The organization and functioning of these camps had a double purpose: The first, according to Document Number F-285, was to make good the labor shortage, and obtain a maximum output at a minimum cost. This document is submitted as Exhibit Number RF-346. I shall not read it *in extenso,* but from Page 14 of your second document book, I shall read the first paragraph:

> "For important military reasons . . ."—this is dated 17 December 1942 and coincides with the difficulties encountered in the course of the Russian campaign—". . . because of great difficulties of a military nature, which cannot be stated, the Reichsführer SS and Chief of the German Police ordered on 14 December 1942 that, by end of January 1943 at the latest, at least 35,000 internees, fit for work, shall be sent to concentration camps.
>
> "To obtain this number the following is ordered:
>
> "As from this date and to 1 February 1943, all Eastern or foreign workers who escaped or broke their contracts, and who do not belong to allied, friendly or neutral states, shall be sent back to concentration camps by the quickest means possible."

Arbitrary internments with a view to procuring, at the least possible cost, the maximum output from labor which had already been deported to Germany but which had to be paid since it was under labor contracts.

The organization of these camps was further intended to exterminate all unproductive forces which could no longer be exploited by German industry, and which in general might hinder Nazi expansion. Evidence for this is furnished by Document Number R-91, Pages 20 and 21 of the second document book, submitted as Exhibit Number RF-347, which is a telegram from the Chief of Staff of the Reichsführer SS, received at 2:10 o'clock on 16 December 1942 from Berlin.

> "In connection with the increased allocation of labor to concentration camps, ordered to be completed by 30 January 1943, the following procedure may be applied regarding the Jews:
>
> "1) Total number: 45,000 Jews.
>
> "2) Start of transportation: 11 January 1943. End of transportation: 31 January 1943. . . .
>
> "3)"—The most important part of the document—"The figure of 45,000 Jews is to consist of 30,000 Jews from the district

A

of Bialystok; 10,000 Jews from the ghetto of Theresienstadt, 5,000 of which are capable of work and until now have been used for light tasks in the ghetto; and 5,000 Jews generally unfit for work, including those over 60 years of age. In order to use this opportunity for reducing the number of inmates now amounting to 48,000 which is too high for the ghetto, I ask that special powers be given to me. . . ."

At the very end of this paragraph:

"The number of 45,000 includes *those unfit for work*"—underlined (italics)—"(old Jews and children included). By applying suitable methods, the screening of newly-arrived Jews in Auschwitz should yield at least *10,000 to 15,000 people fit for work.*"

This is underlined in the text.

And here is an official document which corroborates the testimony of Mme. Vaillant-Couturier, among various other testimonies on the same question, as to how the systematic selections were made from each convoy arriving at Auschwitz, not by the will of the chief of the camp of Auschwitz, but the result of higher orders coming from the German Government itself.

If it please the Tribunal, my report will cease here this evening, and will be continued tomorrow, dealing with the utilization of this manpower, which I shall endeavor to treat as quickly as possible in the light of the testimonies we have already had.

[The Tribunal adjourned until 30 January 1946 at 1000 hours.]

FORTY-SIXTH DAY

Wednesday, 30 January 1946

Morning Session

MARSHAL: May it please the Court, I desire to announce that Defendants Kaltenbrunner and Seyss-Inquart will be absent from this morning's session on account of illness.

THE PRESIDENT: Dr. Babel, I understand that you do not wish to cross-examine that French witness.

HERR BABEL: That is correct.

THE PRESIDENT: Then the French witness can go home.

M. DUBOST: Thank you, Mr. President.

THE PRESIDENT: M. Dubost, there is one reason that possibly that French witness ought not to go. I think I saw she was moving out of Court. Could you stop her, please? I am afraid that she must stay for today.

M. Dubost, are you going to deal with documents this morning?

M. DUBOST: Yes, Mr. President.

THE PRESIDENT: Would you be so good as to give us carefully and slowly the number of the documents first, because we have a good deal of difficulty in finding them.

M. DUBOST: Yes, Mr. President.

THE PRESIDENT: And specify, also, so far as you can, the book in which they are to be found.

M. DUBOST: With the permission of the Tribunal, I shall continue my description of the organization of the camps and the way in which they functioned. We began last night by submitting to the Tribunal Document Number R-91 which showed that their purpose was: 1) to make good the shortage of labor; 2) to eliminate useless forces.

After Document R-91, which has been submitted under Exhibit Number RF-347, we shall read Document Number F-285, already submitted under Exhibit Number RF-346—second document book. This document is dated 17 December 1942 and is the conclusion of the document which we read to you yesterday. First paragraph:

"For important military reasons, which cannot be stated, the Reichsführer SS and the Chief of the German Police. . . ."

THE PRESIDENT: You read that yesterday.

M. DUBOST: That is correct, Mr. President, Page 18, sixth paragraph, at the top of the page.

"Poles eligible for German citizenship and prisoners for whom special requests have been made, will not be transferred to. . . ."

Last paragraph, Page 19:

"Other papers will not be required for Eastern workers."

This shows that arrests were made without discrimination in order to obtain labor and that this labor was considered to be so unimportant that it was sufficient to register it under serial numbers.

Now, we will show how this labor was utilized. Men were housed, as the witness, Balachowsky, said yesterday, near factories in Dora in underground shelters which they themselves had dug and where they lived under conditions which violated all the rules of hygiene. At Ohrdruf near Gotha, the prisoners constructed munition factories. Buchenwald supplied the labor for the factories of Hollerith and Dora and for the salt mines of Neustassfurt. The Tribunal will read in Document Number RF-301, at the bottom of Page 45:

"Ravensbrück supplied the labor for the Siemens factories, those of Czechoslovakia, and the workshops at Hanover."

These special measures, according to the witness, Balachowsky, enabled the Germans to keep secret the manufacture of certain war weapons, such as the V-1 and V-2:

"The deportees had no contact with the outside world. The work of deportees enabled the Germans to obtain an output which they could not have obtained even from foreign workmen."

The French Prosecution will now submit Document R-129 as Exhibit Number RF-348, which the Tribunal will find in the second document book. It deals with the management of concentration camps:

"The administration of a concentration camp, and of all economic enterprises attached to it, rests with the camp commandant."

Fifth paragraph, Figure IV:

"The camp commandant alone is responsible for the work carried out by the workmen. This *work*"—I underline (italics) the word work—"this work must be, in the true sense of the word, exhausting in order to obtain the maximum output."

Two paragraphs lower on the page:

"The hours of work are not limited. This duration depends on the technical structure of the camp and the work to be done and is determined by the camp commandant alone."

Further on, the last paragraph, Page 23 of the book:

"He"—the camp commandant—"must combine a technical knowledge of economic and military subjects with wise and clever management of the men so as to reach a high potential of output."

This document is signed by Pohl. It is dated, Berlin, 30 April 1942.

I should just like to refer again to a document which we have already quoted in relation to the camp of Ohrdruf, and which was submitted under the Number RF-140.

I will now read from Document 1584-PS, Exhibit Number RF-349. This document is signed by Göring and is addressed to Himmler. It definitely establishes the responsibility of Göring in the criminal utilization of this deported labor. I shall read the second paragraph of the second page:

"Dear Himmler:

"... at the same time I ask you to keep at my disposal for Air Force armament the greatest possible number of KZ prisoners."—The initials "KZ" mean concentration camp.

"Experience has so far shown that this labor can be put to very good use. The situation of the war in the air necessitates the transfer of this industry to underground workshops. In such workshops, work and housing can be particularly well combined for KZ prisoners."

We know then who was responsible for the frightful conditions which the deportees of Dora had to endure. The person responsible is in the dock.

THE PRESIDENT: You did not give us the date of that, did you? Is that 19 February 1944?

M. DUBOST: On the first page you will see that on 19 February 1944 a letter was addressed to Dr. Brandt, referring to teletypes which were sent by the Field Marshal.

THE PRESIDENT: Is it the second letter, the letter that you read? Is the date of that 19. 2. 44?

M. DUBOST: It is 15 April 1944 on the original, of which this is a photostat.

THE PRESIDENT: And could you tell us what KZ means, the two letters, KZ?

M. DUBOST: 15. 4. 44 on the original of the teletype, that means concentration camp.

THE PRESIDENT: M. Dubost, for the accuracy of the record, it appears that the letter on the second page is not 15 April 1944, but 14 February. Is that not so?

M. DUBOST: Yes. It is 14 February, 2030 hours. It is a teletype, which was booked 15 April 1944. That was the cause of my error.

THE PRESIDENT: But, M. Dubost, were you submitting or suggesting that this letter showed that the defendant, Göring, was a party to the experiments which took place, or only to the fact that these prisoners were used for work?

M. DUBOST: I was not referring to experiments. I was referring to internment in underground camps, like the Dora Camp of which the witness Balachowsky spoke yesterday in the first part of his testimony. With regard to this will to exterminate, of which I have been speaking from the beginning of my presentation this morning, I think it is proved first of all by the text of Document Number R-91, submitted under Exhibit Number RF-347, which I read yesterday afternoon at the end of the session, a letter which has not as yet been authenticated, and by statements made by the witnesses who brought you proof that, at all the camps in which they were, the same methods of extermination by work were carried out.

As far as the brutal extermination by gas is concerned, we have the invoices for poison gas, intended for Oranienburg and Auschwitz, which we submit to the Tribunal under Exhibit Number RF-350. The Tribunal will find translations on Page 27 of the second document book, Document Number 1553-PS.

I must point out, to be quite honest, that the French translation of these invoices is not absolutely in agreement with the German text. Therefore, in the fifth line, instead of "extermination" it should be "purification."

The testimony of Mme. Vaillant-Couturier showed us that these gases, used for the destruction of lice and other parasites, were also used to destroy human beings. Besides, the quantity of gas which was sent and the frequency with which it was sent, as you can see from the great number of invoices which we offer in evidence, prove that the gas was used for a double purpose. We have invoices dated 14 February, 16 February, 8 March, 13 March, 20 March, 11 April, 27 April, 12 May, 26 May, and 31 May which are all submitted as Exhibit Number RF-350.

THE PRESIDENT: Are you putting in evidence the originals of these other bills to which you refer on this document?

M. DUBOST: I beg the clerk of the Court to hand them to Your Honor, and I request the Tribunal to examine these invoices carefully. They will observe that the quantities of toxic crystals sent to Oranienburg and Auschwitz were considerable; from the invoice

of 30 April 1944 the Tribunal will see that 832 kilograms of crystals were sent, giving a net weight of 555 kilograms.

THE PRESIDENT: What is this document that you have just put in?

M. DUBOST: The 30th of April 1944, but I am taking them at random.

THE PRESIDENT: I am not asking the date. What I want to know is what is the authority for this document? It comes, does it not, from one of the committees set up by the French Republic?

M. DUBOST: No, Mr. President. The Document is an American document which was in the American archives, under the Document Number 1553-PS.

THE PRESIDENT: M. Dubost, this note at the bottom of Document 1553-PS was not on the original put in by the United States, was it?

M. DUBOST: No, Mr. President, but you have before you all the originals under the number which the clerk of the Court has just handed you.

THE PRESIDENT: Unless you have an affidavit identifying these originals, the originals do not prove themselves. You have got to prove these documents which you have just handed up to us either by a witness or by an affidavit. The documents are documents, but they do not prove themselves.

M. DUBOST: These documents were found by the American Army and filed in the archives of the Nuremberg Trial. I took them from the archives of the American Delegation, and I consider them to be as authentic as all the other documents which were filed by my American colleagues in their archives. They were no doubt captured by the American Army.

THE PRESIDENT: There are two points, M. Dubost. The first is, that in the case of the original exhibit, 1553-PS, it was certified, we imagine, by an officer of the United States. These documents which you have now drawn our attention to are not so certified by anyone as far as we have been able to see. Certainly we cannot take judicial notice of these documents, which are private documents; and therefore, unless they are read in Court, they cannot be put in evidence. That can all be rectified very simply by such a certificate or by an affidavit annexing these documents and showing that they are analogous to the document which is the United States exhibit.

M. DUBOST: They are all United States documents, and they are all filed in the archives of the United States in the American Delegation under the Number 1553-PS.

THE PRESIDENT: The American Document Number 1553-PS has not yet been submitted to the Tribunal and the Tribunal is of the opinion that they cannot take judicial notice of this exhibit without any further certification, and they think that some short affidavit identifying the document must be made.

M. DUBOST: I will request my colleagues of the American Prosecution to furnish this affidavit. I did not think it possible that this document, which was classified in their archives, could be ruled out.

This purpose of extermination, moreover, does not need to be proved by this document. It is sufficiently established by the testimony which we have submitted to the Tribunal. The witness, Boix, spoke these words: "No one is allowed to leave this camp alive.... There is only one exit, and that is the chimney of the crematorium."

In Document F-321, Exhibit Number RF-331, Page 49, at the top of the page, we read:

"The only explanation which the SS men made to the prisoners was that no captive should leave the place alive."

On Page 179, the paragraph before the last of the French text:

"The SS told us there was only one exit—the chimney."

On Page 174, the last paragraph before the heading "Gassing and Cremation":

"The essential purpose of this camp was the extermination of the greatest possible number of men. It was known as the extermination camp."

This destruction, this extermination of the internees, assumed two different forms. One was progressive; the other was brutal.

In the second document book which is before the Tribunal, we find the report of a delegation of British Members of Parliament, dated April 1945, submitted under Exhibit Number RF-351, from which we quote these words (the third paragraph on Page 29):

"Although the work of cleaning out the camp had gone on busily for over a week before our visit... our immediate and continuing impression was of intense general squalor...."

Page 30, the last paragraph but one:

"We should conclude, however, by stating that it is our considered and unanimous opinion, on the evidence available to us, that a policy of steady starvation and inhuman brutality was carried out at Buchenwald for a long period of time; and that such camps as this mark the lowest point of degradation to which humanity has yet descended."

Likewise, in the report of a committee set up by General Eisenhower, Document L-159, which we submit under Exhibit

Number RF-352, Pages 31, 32, and 33 of the same document book, we read:

"The purpose of this camp was extermination. . . ."

Page 31:

"Atrocities and other conditions in the concentration camps in Germany. Report of a committee founded by General Eisenhower under the auspices of the Chief of Staff, General George Marshall, to the Congress of the United States, concerning atrocities and other conditions in concentration camps in Germany."

Page 32:

"The mission of this camp was extermination, by starvation, beatings, torture, incredibly crowded sleeping conditions, and sickness. The result of these measures was heightened by the fact that prisoners were obliged to work in an armament factory adjoining the camp which manufactured small fire-arms, rifles. . . ."

The means which were used to carry out this progressive extermination are numerous, as shown in documents which have just been handed to us. These documents, which we are going to submit, have been communicated to the Defense. They consist of printed formulas coming from Auschwitz, concerning the number of blows which could be administered to the internees or prisoners.

These documents will be handed over to the Defense for their criticism. They have just been given to us. I am not able to authenticate their origin today. They appear to me to be of a genuinely authentic character. Photostats of these documents have been given to the Defense.

THE PRESIDENT: M. Dubost, the Tribunal thinks that they cannot admit these documents at present. It may be that after you have more time to examine the matter you may be able to offer some evidence which authenticates the documents, but we cannot admit the documents simply upon your statement that you believe them to be genuine.

M. DUBOST: Moreover, everything in the camps contributed to pave the way for the progressive extermination of the people who were interned there. Their situation was as follows: They were exposed to a hard climate; some worked underground. Their living conditions have been brought to light by the testimony which you have heard. When the internees arrived, they were compelled to remain naked for hours while they were being registered or waiting to be tattooed.

Everything combined to cause the rapid death of those who were interned in the camps. A good number of them were subjected

to an even harder regime, the description of which was given to the Tribunal by the American Prosecution when they submitted Document Number USA-243 and the following, dealing with the Nacht und Nebel regime, the NN.

I do not think it is necessary to return to the description of this regime. I shall merely submit a new document which shows the rigor with which the NN regime was applied to our compatriots. It appears under the Document Number F-278(b), submitted under Exhibit Number RF-326. It comes from the German Armistice Commission of Wiesbaden and shows that no steps were ever taken in reply to repeated protests by the French population, and even by the *de facto* government of Vichy, against the silence which shrouded the internees of the NN camps.

I shall now read Paragraph 2 which explains why no reply could be given to families, who had good reason for anxiety:

> "This result was foreseen and desired by the Führer. His opinion was that effective and lasting intimidation of the population, which would put a stop to its criminal activities against the occupation forces, would be achieved by the death sentence, or by measures which would leave the offenders' next of kin and the population generally in the dark as to their fate."

We will not devote any more time to describing the blocks and the hygienic conditions under which the internees in the blocks lived. Four witnesses, who all came from different camps, have pointed out to you that the hygienic conditions in these different camps were identical and that the blocks were equally overcrowded in all these camps. We know that in all cases the water supply was insufficient and that deportees slept two or three in beds 75 to 80 centimeters wide. We know that the bedding was never renewed or was in very bad condition. We know likewise the conditions in which the medical services of the camp functioned. Several witnesses belonging to the medical profession have testified to this fact before you. The Tribunal will find confirmation of their testimony in Document F-121, Exhibit Number RF-354. We shall read just one line of Page 100 of your document book:

> "Because of lack of water the prisoners were obliged to fetch stagnant water from the water closets to satisfy their thirst."

And then in Exhibit Number RF-331, (Document Number F-321), Page 119 of the French text, third paragraph:

> "The surgical work was done by a German who claimed to be a surgeon from Berlin, but who was an ordinary criminal. He killed the patient in each operation. . . ."

Two paragraphs lower:

"The management of the block was in the hands of two Germans, who acted as sick bay attendants—unscrupulous men, who carried out surgical operations on the spot with the help of a certain H . . ., who was a mason by trade."

After the statements of our witnesses, who in their capacity as doctors of medicine were able to care for patients in the camp infirmaries, it seems superfluous to give further quotations from our documents.

When the workers had been worked to the point of exhaustion, when it became impossible for them to recover, selections were made setting apart those who were of no further use with a view to exterminating them either in the gas chambers, as related by our first witness, Mme. Vaillant-Couturier, or by intracardiac injections, as related by two other French witnesses, Dr. Dupont and Dr. Balachowsky. This system of selection was carried out in all the camps and was, moreover, in response to general orders, proof of which we showed when reading Document Number R-91, submitted under Exhibit Number RF-347.

In the first document book the Tribunal will find the testimony of Blaha, testimony which it will certainly recall and which was received here the 9 January—it is the testimony of Blaha, 3249-PS.

THE PRESIDENT: You have already given this as evidence, have you not?

M. DUBOST: I am not going to read it. I merely wish to recall it to the Tribunal because it forms part of my collection of proofs.

THE PRESIDENT: We do not want affidavits by witnesses who have already given evidence. This affidavit, 3249-PS, has not been put in, has it?

M. DUBOST: No, I am merely recalling the testimony which was given at the session. We shall not submit this document, Mr. President. We are merely utilizing this document to remind the Tribunal that during the session Blaha pointed out conditions existing in the infirmary.

To all these wretched living conditions must be added work, exhausting work, for all the deportees were intended to carry out extremely hard work. We know that they worked in labor squads and in factories. We know, according to the witnesses, that the work lasted 12 hours a day at a minimum, and that it was often prolonged to suit the whim of the camp commandant.

Document R-129 (Exhibit Number RF-348), from which I have already read, emanating from Pohl and addressed to Himmler, Pages 22 and 23 of the second document book, suggests that the working hours should be practically unlimited.

This work was carried out, as the witnesses have told us, in water, in the mud, in underground factories—in Dora for instance—and in the quarries in Mauthausen. In addition to the work, which was exhausting in itself, the deportees were subject to ill-treatment by the SS and the Kapos, such as blows or being bitten by dogs.

Our Document Number F-274, Exhibit Number RF-301, Pages 74 and 75, brings official testimony to this effect. Is it necessary to read to the Tribunal from this document, which is an official document to which we constantly refer and which has been translated into German and into English?

THE PRESIDENT: I do not think you need read it.

M. DUBOST: Thank you, Mr. President. This same document, Page 77 and Page 78, informs us that all the prisoners were forced to do the work assigned to them, even under the worst conditions of health and hygiene. There was no quarantine for them even in case of contagious diseases or during epidemics.

The French Document Number F-392, Exhibit Number RF-330, which we have already submitted, which is the testimony of Dr. Steinberg, confirms that of Mme. Vaillant-Couturier. It is the twelfth document of your first document book. We shall read at Page 4:

> "We received half a liter of herb tea; this was when we were awakened. A supervisor, who was at the door, hastened our washing by giving us blows with a cudgel. The lack of hygiene led to an epidemic of typhus. . . ."

At the end of the third paragraph you will find the conditions under which the prisoners were taken to the factories; in the fifth paragraph a description of shoes:

> "We had been provided with wooden shoes which in a few days caused wounds. These wounds produced boils which brought death to many."

I shall now read Document R-129, Pages 22, 23, and 24 in the second document book, and which we submit under the Number . . .

THE PRESIDENT: One moment; the Tribunal will adjourn now for fifteen minutes.

[A recess was taken.]

THE PRESIDENT: M. Dubost, the Tribunal has been considering the question of the evidence which you have presented on the concentration camps; and they are of opinion that you have proved the case for the present, subject, of course, to any evidence which may be produced on behalf of the defendants and, of course, subject also to your right under Article 24-c of the Charter to bring in rebutting evidence, should the Tribunal think it right to admit

such evidence. They think, therefore, that it is not in the interests of the Trial, which the Charter directs should be an expeditious one, that further evidence should be presented at this stage on the question of concentration camps, unless there are any particular new points about the concentration camps to which you have not yet drawn our attention; and, if there are such points, we should like you to particularize them before you present any further evidence upon them.

M. DUBOST: I thank the Tribunal for this statement. I do not conceal from the Tribunal that I shall need a few moments to select the points which it seems necessary to stress. I did not expect this decision.

With the authorization of the Tribunal, I shall pass to the examination of the situation of prisoners of war.

THE PRESIDENT: M. Dubost, possibly you could, during the adjournment, consider whether there are any particular points, new points, on concentration camps which you wish to draw our attention to and present them after the adjournment, in the meantime proceeding with some other matter.

M. DUBOST: The 1 o'clock recess?

THE PRESIDENT: Yes, that is what I meant.

M. DUBOST: I shall, therefore, consider as established provisionally the proof that Germany, in its internment camps and in its concentration camps, pursued a policy tending towards the annihilation and extermination of its enemies, while at the same time creating a system of terror which it exploited to facilitate the realization of its political aims.

Another aspect of this policy of terror and extermination appears when one studies the war crimes committed by Germany on the persons of prisoners of war. These crimes, as I shall prove to you, had two motives, among others: To debase the captives as much as possible in order to sap their energy; to demoralize them; to cause them to lose faith in themselves and in the cause for which they fought, and to despair of the future of their country. The second motive was to cause the disappearance of those of them who, by reasons of their previous history or indications given since their capture, showed that they could not be adapted to the new order the Nazis intended to set up.

With this aim, Germany multiplied the inhuman methods of treatment intended to debase the men in her hands, men who were soldiers and who had surrendered, trusting to the military honor of the army to which they had surrendered.

The transfer of prisoners was carried out under the most inhumane conditions. The men were badly fed and were obliged to

make long marches on foot, exposed to every kind of punishment, and struck down when they were tired and could no longer follow the column. No shelter was provided at the halting places and no food. Evidence of this is given in the report on the evacuation of the column that left Sagan on 28 January 1945 at 12:30 p.m.

THE PRESIDENT: Where shall we find it?

M. DUBOST: It is in the document book submitted by M. Herzog. It is the report on the evacuation of the column that left Sagan on 28 January 1945. It is Document Number UK-78, submitted under Exhibit Number RF-46. A column of 1,357 British soldiers, including soldiers of all ranks, started out on 28 January 1945 for Spremberg.

THE PRESIDENT: Possibly this is the first document in your document book which has been handed up to us.

M. DUBOST: That is right, Mr. President. I shall now read to you the document on the evacuation of the Sagan Camp from 28 January to 4 February 1945. As the Tribunal has not the copy before it, I pass to Document Number UK-170, Exhibit Number RF-355.

THE PRESIDENT: I am just telling you that I rather think this may be the document, if it begins with "1,357 English prisoners of war. . . ." Does it begin in that way?

M. DUBOST: Yes. The document which you have before you, Mr. President, deals with the transfer of British prisoners. The one about which I wished to speak and from which I wanted to read to you dealt with the transfer of French prisoners. I think that it is not necessary for me to lengthen the session by showing the Tribunal that the British and the French prisoners were treated in the same fashion. I shall, therefore, restrict myself to your document.

"1,357 British war prisoners of all ranks marched out of Stalag Luft III in columns on 28 January 1945, and were thereafter marched for distances varying from 17 to 31 kilometers a day to Spremberg, where they were entrained for Luckenwalde. Food, water, medical supplies, and adequate accommodation were more or less nonexistent throughout the trip. At least three prisoners . . . had to be left at Muskau. . . ."

On the bottom of the page, three lines before the end:

"On the 31st they covered the distance of 31 kilometers to Muskau. It is small wonder that at this stage three men, Lieutenants Kielly and Wise, and Sergeant Burton collapsed and had to be left in the hospital at Muskau."

Page 2 at the end of the document:

"On the march, apart from the Red Cross parcel already referred to, the only rations issued to the men were one-half loaf of bread and one issue of barley soup for each. The supply of water is described as 'haphazard'. . . . No fewer than 15 of them escaped during the march."

Now a statement by M. Bondot:

"The camp conditions of the Franco-Belgian column were even more rigorous. The camps were organized in a manner which was contrary to all the rules of hygiene. The prisoners were crowded into a very narrow space. They had no heat or water. There were 30 to 40 men to a room in Stalag III-C."

M. Boudot's statement is to be found in the report on prisoners and deportees which was also handed to you the other day by M. Herzog. I believe that the Tribunal has kept its documents of last Thursday. . .

THE PRESIDENT: We have kept those documents, but if we had them on the Bench before us you would not be able to see us.

M. DUBOST: Similar statements are found in the Red Cross reports. Berger, who was in charge of prisoner-of-war camps under Himmler from 1 October 1944, admitted in the course of his examination that the food supply of prisoners of war was entirely insufficient. The Tribunal will find on Page 3 of the document book, which is before it, an extract from Berger's examination. Second paragraph:

"I visited a camp south of Berlin, the name of which I cannot remember at the moment. I shall perhaps remember later. At that time it was obvious to me that the food conditions were absolutely inadequate and a violent argument between Himmler and myself arose. Himmler was violently opposed to continuing the distribution of packages of the Red Cross in the prisoner-of-war camps at the same rate as before. As for me, I thought that in this case we should be faced with serious problems regarding the men's health."

We present Document Number 826-PS as Exhibit Number RF-356. This document was issued by the Führer's headquarters and is a report on a visit to Norway and Denmark. It is on Page 7 of your document book, Paragraph 3:

"All the prisoners of war in Norway receive only sufficient food to keep them alive without working. The felling of timber, however, makes such physical demands on these prisoners of war that, if the food remains the same, a considerable decline in production must soon be expected."

This note applies to the situation of the 82,000 prisoners of war held captive in Norway, 30,000 of whom were employed on very

hard construction work which was being carried out by the Todt organization. This is found in the first paragraph of Page 7.

I now present to the Tribunal a document, Number 820-PS, Page 9 in the document book. It deals with the establishment of prisoner-of-war camps in the regions exposed to aerial bombardment. It was issued by headquarters. It is dated 18 August 1943. It was sent by the Commander-in-Chief of the Air Force to the Supreme Command of the Wehrmacht. We submit it as Exhibit Number RF-358, and we shall read to the Tribunal Paragraph 3:

"The Commander-in-Chief, Air General Staff, proposes to erect prisoner-of-war camps in the residential quarters of cities, in order to obtain a certain protection thereby."

I skip a paragraph:

"In view of the above reason, consideration should be given to the immediate erection of such camps in a large number of cities which appear to be endangered by air attacks. As the discussions with the city of Frankfurt . . . have shown, the towns will support and speed up the construction of the camps by all available means."

The last paragraph:

"So far, there are in Germany about 8,000 prisoners of war of the British and American Air Forces (without counting those in hospitals). By evacuating the camps actually in existence, which might be used to house bombed-out people, we should immediately have at our disposal prisoners of war for a fairly large number of such camps."

This refers to the camps set up in bombed areas and areas which were particularly exposed.

On Page 10 the Tribunal will find a document issued by the Führer's headquarters, dated 3 September 1943, dealing with the establishment of these new prisoner-of-war camps for British and American airmen. We submit this document as Exhibit Number RF-339 (Document Number 823-PS):

"1) The Commander-in-Chief, Air General Staff, is planning the erection of further camps for air force prisoners, as the number of new prisoners is mounting to more than 1,000 a month, and the space available at the moment is insufficient. The Supreme Commander of the Luftwaffe proposes to establish these camps within residential quarters of cities, which would constitute at the same time a protection for the populations of the town and, in addition, to transfer all the existing camps, containing about 8,000 British and American Air Force prisoners, to larger towns threatened by enemy air attack. . . .

"2) The Supreme Commander of the Wehrmacht, Chief of War Prisoners, has approved this project in principle."

On Page 12 of the document book which the Tribunal has before it is a document, Number F-551, which we shall submit as Exhibit Number RF-360. It deals with the sentencing of prisoners of war in violation of Article 60 and the following articles of the Geneva Convention. The Geneva Convention provides that the protecting power shall be advised of judicial prosecutions that are made against prisoners of war and will have the right to be represented at the trial. The document which we submit as Exhibit Number RF-360 shows that these provisions were violated:

"In practice, the application of Articles 60 and 66, particularly Paragraph 2 of Article 66 of the Convention of 1929, concerning the treatment of prisoners of war causes considerable difficulties. For the application of severe penal jurisdiction, it is intolerable that precisely for the most serious offenses, as for instance, attacks on the guards, the death sentence cannot be carried out until 3 months after its notification to the protecting power. The discipline of prisoners of war is bound to suffer from this."

I pass over the rest of the paragraph. On Page 12:

"The following regulation is proposed:

"a) The French may be confident that the trials by German courts-martial will be carried out thoroughly and conscientiously as before;

"b) Germany will designate, as before, a defense counsel and an interpreter. . . .

"c) In case of a death sentence an adequate respite will be granted."

On top of Page 13:

"In this respect, in urgent cases, however, Germany must reserve for herself the right—even if not expressly stated—to execute the sentence immediately."

Third paragraph:

"There is no question of allowing France, by virtue of Article 62, Paragraph III (POW), of the Geneva Convention, to delegate representatives to the chief sessions of the German Military Tribunals."

We possess an example of the violation of Articles 60 and those following of the Geneva Convention in the report of the Netherlands Government, which the Tribunal will find on Page 14 of its document book.

THE PRESIDENT: I think we better break off now.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: May it please the Court, I desire to announce that the Defendants Kaltenbrunner and Seyss-Inquart will be absent from this afternoon's session due to illness.

THE PRESIDENT: I have an announcement to make.

When the attention of the Tribunal was called by the Defendant Hess to the absence of his counsel, the Tribunal directed that the presentation of the individual case against Hess be postponed, so that counsel could be present when it was presented. So far as the cross-examination of witnesses who testified to matters affecting the general case and not against Hess specifically is concerned, it is the view of the Tribunal that the cross-examination conducted by counsel representing the defendants equally interested with Hess in this feature of the case was sufficient to protect his interests, and the witnesses will therefore not be recalled.

The Tribunal has received a letter from the Defendant Hess dated 30 January 1946, to the effect that he is dissatisfied with the services of counsel who has been appearing for him and does not wish to be represented by him further, but wishes to represent himself.

The Tribunal is of the opinion that, having elected, in conformity with Article 16 of the Charter, to be represented by counsel, the Defendant Hess ought not to be allowed at this stage of the Trial to dispense with the services of counsel and defend himself. The matter is of importance to the Tribunal, as well as to the defendant, and the Tribunal is of the opinion that it is not in the interests of the defendant that he should be unrepresented by counsel.

The Tribunal has therefore appointed Dr. Stahmer to represent the Defendant Hess, in place of Dr. Von Rohrscheidt.

[Turning to M. Dubost] Yes, M. Dubost.

M. DUBOST: I beg the Tribunal to excuse me; I was completing the work which they had requested me to do in relation to concentration camps. In a few moments, when I have completed the exposé on the question of prisoners of war, I shall present to the Tribunal the end of the French presentation concerning concentration camps. This will not be much, for we shall have only a few documents to cite. Subject to counter evidence which the Defense may bring, the systematic repetition of the same methods seems so far sufficiently established.

We were at the point of reading a document of the Dutch Government, which was already presented to the Tribunal under Document Number F-224 (Exhibit Number RF-324) and which establishes that a protest was formulated, following the secret

condemnation to death and the execution of three officers: Lieutenants J. J. B. ten Bosch, B. M. C. Braat, and Thibo.

I think that the document to which I alluded this morning, which is the official report of the French Government concerning prisoners, is now in the hands of the Tribunal. It is the document submitted by M. Herzog under Exhibit Number RF-46, Document Number UK-78. I ask the Tribunal to excuse me, as I cannot present this document again. I have no more copies.

It is evident from this document that the Nazis had a systematic policy of intimidation. They strove to keep the greatest possible number of prisoners of war in order to be able, if necessary, to exercise efficacious pressure over the countries from which these prisoners came. This policy was exercised by the irregular or improper capture of prisoners, and also by the refusal, which was systematically upheld, to repatriate the prisoners whose state of health would have justified this measure.

Concerning the irregular or improper capture of prisoners of war, we can cite the example of what happened in France after the signing of the armistice.

The report of the Ministry of Prisoners and Deportees, to which we refer, indicates, on Page 4:

> "In 1940 certain French military formations laid down their arms at the time of the armistice under the assurance given by the German Army that troops who had thus surrendered would not be taken into captivity. These troops were, nevertheless, captured. The Alpine Army had passed over the Rhône in order to be demobilized and was west of the region of Vienne. They were taken prisoners and were sent to Germany until the end of July 1940.
>
> "Moreover, noncombatant formations of special civilians were led into captivity and imprisoned in accordance with Himmler's orders, which said that all Frenchmen of military age were to be seized indiscriminately. In short, it was only through the making of special exceptions and the private initiative of unit commanders that all Frenchmen were not transferred to Germany.
>
> "Because of the enormous number of prisoners and the difficulties that faced the German Army in taking all those men to Germany, the German Army decided, in 1940, to create what they called 'Front-Stalags.'
>
> "The promise had been made to the Vichy Government, which was established after the armistice, that soldiers who were kept in these 'Front-Stalags' would be kept in France. Yet, the men in these camps began to be sent to Germany in October 1940."

In an additional report appended to the document book which is before you, the Ministry of Prisoners and Deportees points out the irregular capture of the troops of the fortified sector of Haguenau, the 22d R.I.F., the 81st B.C.P., the 51st and 58th Infantry Regiments and a North African division. It is Document F-668 which I submit under Exhibit Number RF-361, the pages of which are not numbered, it is appended to the document book. I quote the document:

"Troops of the fortified sector of Haguenau: the 22d R.I.F. and the 81st B.C.P.

"These troops fought until 25 June, 1:30, and only stopped firing after an agreement between the colonel in charge of the fortified sector of Haguenau and the German generals, an agreement which guaranteed the troops the honors of war and particularly that they would not be made prisoners. The 51st and 58th Infantry Regiments, as well as a North African Division, withdrew towards Toul only after an agreement, signed on the 22 June, between the French General Dubuisson and the German General Andreas, at Thuilleaux-Groseilles, Meurthe-et-Moselle, an agreement guaranteeing military honors and confirming that the troops would not be taken prisoners."

THE PRESIDENT: What official document does this document come from?

M. DUBOST: From the Ministry of Prisoners and Deportees. It is the additional report which was made by the French Government. We submit it under Exhibit Number RF-361.

THE PRESIDENT: Have you got the report on the captivity?

M. DUBOST: This report will be submitted to you, Mr. President.

THE PRESIDENT: It appears to be Addition Number 2 to the report on the captivity, for the attention of the French Delegation to the Court of Justice at Nuremberg.

M. DUBOST: That is correct, Mr. President. The information which I have just read to the Tribunal consists of extracts from a note from Darlan to Ambassador Scapini on 22 April 1941.

THE PRESIDENT: But M. Dubost, is there anything to show that it is an official document, such as this book?

M. DUBOST: This document, Mr. President, bears no relation to the one which I am quoting.

THE PRESIDENT: No, I know it does not, but this is an official document produced by the Republic of France, is it not?

M. DUBOST: Yes.

THE PRESIDENT: How do you show that this Addition Number 2 to the report on captivity is equally an official document with this one? That is what we want to know.

M. DUBOST: Mr. President, it is a report which was submitted in the name of the Government of the French Republic by the delegation which I have the honor to represent.

THE PRESIDENT: Well, you see, this one here is headed "Service of Information of War Crimes, Official French Edition." Now, that seems to us to be different from this mere typewritten copy, which has on it the "Appendix Number 2 to the Report on the Captivity." We do not know whose report on the captivity.

M. DUBOST: Mr. President, you have before you the official note of transmission from our government. The clerk of the Court has just handed it to you.

THE PRESIDENT: We have this document, which appears to be an official document, but this addition has no such seal upon it as this has.

M. DUBOST: There is mention of an appendix to this document.

THE PRESIDENT: The other is marked: Appendix. It must be identified by a seal.

M. DUBOST: The covering letter has a seal and the fact that it alludes to the document is sufficient, in my opinion, to authenticate the document transmitted. May I continue?

THE PRESIDENT: No. This document here has a letter attached to it. This document here is not referred to in that letter specifically. Therefore, there is nothing to connect the two documents together.

M. DUBOST: I think there is a manuscript note in the margin. I have not the document before me here and cannot be positive about it but I think there is a manuscript note in the margin.

THE PRESIDENT: The Tribunal wishes you to put this in as one document. I see there is a manuscript note here at the side, in writing, which refers to the Appendix. If you will put the whole thing in together...

M. DUBOST: It is all submitted in one file.

Now I wish to read to the Tribunal extracts from two letters addressed to the German Armistice Commission at Wiesbaden by the ex-Ambassador Scapini, both dated 4 April 1941. The Tribunal will find them reproduced in the document book before them, Pages 16, 17, 18, 19, 20, 21, and 22:

"4 April 1941.

"M. Georges Scapini, Ambassador of France.

"To his Excellency Monsieur Abetz, German Ambassador in Paris.

"Subject: Men captured after 'the coming into force of the Armistice Convention and treated as prisoners of war. . . .' "

At the bottom of the page:

"I. The Geneva Convention applies only during a state of war as far as captures are concerned. Armistice, however, suspends war operations; therefore, any man captured after the Armistice Convention came into force and treated as a prisoner of war, is wrongfully retained in captivity. . . ."

Page 17, third paragraph:

"The Armistice Convention, in its second paragraph, states only that the French Armed Forces stationed in regions to be occupied by Germany are to be brought back quickly into unoccupied territory and demobilized, but does not say that they are to be taken into captivity, which would be contrary to the Geneva Convention. . . ."

Fifth paragraph of the same page:

"1. Civilians. If it is admitted that civilians captured before the armistice cannot be treated as prisoners of war, as discussed in my previous letter, surely there is all the more reason not to consider as such those captured after the armistice. I note in this respect that captures, some of which were collective, were carried out several months after the end of hostilities. . . ."

Then on Page 18, the top of the page:

"To the categories of civilians defined in my first letter, I wish to add one more—that of demobilized civilians who were going back to their homes in the occupied zone after the armistice and who, more often than not, were captured on their way home and sent into captivity as a result of the initiative of local military authorities.

"2. Soldiers. As such I would define, by convention, men who, though freed after the armistice, could not for some reason—due to the difficult circumstances of that period—be provided with the regular demobilization papers. Many of them were captured and taken into captivity under the same condition as those mentioned above. . . ."

I think the Tribunal will not require the reading of that example, but if the President wishes, I shall read it.

THE PRESIDENT: No.

M. DUBOST: Let us turn to Page 19, the last paragraph, entitled:

"A. Civilians not subject to military service.

"It is obvious that these men could not be considered soldiers according to French law. They can be classified, according to age, into three groups:

"(a) Men under 21 not yet called to the colors. Example: Flanquart, Alexandre, 18 years old, captured by the German troops at Courrières, Pas-de-Calais, at the time of the arrival of the latter in that region. His address in captivity was Number 65/388, Stalag II-B.

"(b) Men between 21 and 48 who were not mobilized, who were demobilized, or who were considered unfit for service."

There follows a rather lengthy list which the Tribunal will perhaps accept without my reading it. It consists merely of proper names. In the middle of the page:

"(c) Men specially assigned to the army. I will classify them into two groups:

"1. Men mobilized into special corps, which are military formations established at the time of the mobilization by different ministerial departments, according to the following chart...."

At the top of Page 21:

"2. Men specially assigned, who at mobilization were kept in the positions which they held in time of peace in military services or establishments. Example: Workmen in artillery depots.

"Civilians specially assigned. Contrary to those mentioned above, the civilians who were specially assigned did not belong to military formations and were not subject to military authority. Nevertheless they were arrested. Example:"—I skip several lines—"Moisset, Henri, specially assigned to the Marret-Bonin factory."—I skip a few more lines.

"Address in captivity: Number 102 Stalag II-A."

Those people were not all freed, far from it. Some remained prisoners until the end of the war.

We shall cite now a document submitted under Exhibit Number RF-362 (Document Number F-224), the text of which is in your document book, on Page 15a. This text may be summarized in a few words. It is the story of Dutch officers who were freed after the capitulation of the Dutch Army and recaptured shortly afterwards and sent in captivity to Germany. Paragraph 3 of this document:

"On 9 May 1942 a summons addressed to all regular officers of the former Dutch Army who were on active service on 10 May 1940 was published in the Dutch newspapers, according to which they were to present themselves on Friday, 15 May 1942, at the Chassée Barracks in Breda...."

Paragraph 5:

"More than one thousand regular officers reported to the Chassée Barracks on 15 May 1942. The doors were closed after them...."

Paragraph 7:

"A German officer of high rank came into the barracks and declared that the officers had not kept their word to undertake no action against the Führer and, as a result of this, they were to be kept in captivity...."

The following paragraph states that "they were taken from the station at Breda to Nuremberg, in Germany."

Numerous obstacles were placed in the way of the release of French prisoners of war who, for reasons of health, should have been sent back to their families. I shall quote a document already submitted under Exhibit Number RF-297 (Document Number F-417), Page 23 of your document book; and I read, Paragraph 1:

"The question of releasing French generals, prisoners of war in German hands, for reasons of health or age was taken up on several occasions by the French authorities."

This reproduction of the stencil is not quite clear. I continue with Paragraph 2:

"So far as this question is concerned, the Führer has always refused to consider either their release or allowing them to be placed in hospitals in neutral countries."

Paragraph 3:

"Today release or sending to hospitals is more out of the question than ever...."

And a written note reads: "No reply to be given to the French note."

This note, in fact, was addressed by the Supreme Command of the German Army to the German Armistice Commission, who had asked for instructions as to whether or not they should reply to the request concerning the release of French generals who were ill, a request made by the Vichy Government.

Much more serious measures were undertaken against our prisoners of war by the German authorities when, for reasons of a patriotic nature, some of our prisoners gave the Germans to understand that they were not willing to collaborate with Germany. The

German authorities considered them as incapable of being assimilated and dangerous; their courage and their determination gave much concern to Germany, and the measures taken against them amounted to nothing less than murder. We know of numerous examples of murder of prisoners of war. The victims were mainly: 1) men who had taken part in commando actions; 2) airmen; 3) escaped prisoners. These murders were carried out by means of deportation and the internment of these prisoners in concentration camps.

While interned in these camps, they were subjected to the regime about which you know and which was bound to cause their death, or else they were killed quite simply with a bullet in the back of the neck, according to the KA method which has been described by our American colleagues and on which I will not dwell. In other cases they were lynched on the spot by the population, in accordance with direct orders, or with the tacit consent of the German Government. In yet other cases, they were handed over to the Gestapo and the SD, who, as you will see at the end of my statement, during the last years of the occupation had the right to carry out executions.

With the Tribunal's permission, we shall study two cases of extermination of combat troops captured after military operations: that of commandos and that of airmen.

As the Tribunal knows, men who were commandos were almost always volunteers. In any case, they were selected from among the most courageous fighters and those who showed the greatest physical aptitude for combat. We can consider them, therefore, as the elite and the order to exterminate them as an attempt to annihilate the elite and spread terror through the ranks of the Allied Armies. From a legal point of view the execution of the commandos cannot be justified. The Germans themselves, moreover, used commandos quite extensively; but whereas, in the case of their own men being taken prisoners, they always insisted that they be recognized as belligerents, they denied that right to our men or to those of the Allied Armies.

The main order concerning this was signed by Hitler on 18 October 1942, and it was extensively carried out. Moreover, this order was preceded by other orders of the OKW, which show that the question had been carefully studied by the General Staff before becoming the subject of a final order by the head of the German Government.

Under Document Number 553-PS, the Tribunal will find, on Page 24 of the document book, an order signed by Keitel which we submit as Exhibit Number RF-363. This order prescribes that all

isolated parachutists or small groups of parachutists carrying out a mission shall be executed. It is dated 4 August 1942.

THE PRESIDENT: Do not read it.

M. DUBOST: I thank the Tribunal for sparing me the reading of it.

On 7 October 1942 a communiqué of the OKW, disseminated by the press and radio, announced the decision taken by the High Command to execute saboteurs. On Page 26 the Tribunal will find in the document book extracts from the *Völkischer Beobachter* of 8 October 1942 (Document Number RF-364):

"In future all terrorist and sabotage units of the British and their accomplices, who do not behave as soldiers but as bandits, will be treated as such by the German troops and shot on the spot without mercy, wherever it may be."

Under the Exhibit Number RF-365 (Document 1263-PS), we submit the minutes of a meeting of the General Staff of the Wehrmacht, dated 14 October 1942. Paragraph 3:

"During the era of total warfare sabotage has become one of the most important elements in the conduct of war. It is sufficient to state our attitude to this question. The enemy will find evidence of it in the reports of our own propaganda units. . . ."

Page 29, the end of Paragraph 3:

"Sabotage is an essential element . . . we ourselves have strongly developed this means of combat."

Then the sixth paragraph.

"We have already announced by radio our intention of liquidating, in future, all groups of terrorists and saboteurs acting like bandits. Therefore the WFSt has only to issue regulations to the troops how to deal with terrorist and sabotage groups."

Page 30. The Tribunal will see what orders were given concerning the treatment of what the German General Staff called groups of terrorists and British saboteurs. It is certain that the German General Staff never called their own commandos groups of terrorists and saboteurs.

Paragraph A refers to groups of the British Army without uniform or in German uniform. I quote:

"In combat or in flight they are to be killed without mercy."

Paragraph B:

"Members of terrorist and sabotage groups of the British Army wearing uniform, who in the opinion of our troops are guilty of acting dishonorably or in any manner contrary to

the law of nations, are to be kept in separate custody after capture. . . .

"Instructions concerning the treatment to be inflicted upon them will be given by the WFSt in agreement with the Army legal service and the Counter-Intelligence Department, Foreign Section (Amt Ausland Abwehr)."

Finally, Page 31, Paragraph 2:

"Violation of the laws of war by terrorist or sabotage troops is in the future always to be assumed when individual assailants as saboteurs or agents, regardless of whether they were soldiers or whatever their uniform might be, place themselves outside the laws of war by committing surprise attacks or brutalities which in the judgment of our troops are inconsistent with the fundamental rules of war."

Paragraph 3:

"In such cases the assailants will be killed without mercy to the last man, in combat or in flight."

Paragraph 4:

"Confinement in prisoner-of-war camps, even temporarily, is forbidden."

Thus in carrying out these orders, if British soldiers, even in uniform, were captured during a commando operation, the German troops were to judge whether they had acted according to the laws of war or not; and without any appeal, subordinates could annihilate them to the last man, even when they were not engaged in active fighting. These orders were applied to British commandos.

We shall now quote Document Number 498-PS, which was submitted by our American colleagues under Exhibit Number USA-501 and which confirms the information which we have just given to the Tribunal by the reading of the preceding documents. It seems useless to read this document.

THE PRESIDENT: M. Dubost, there are two points to which I wish to draw your attention. In the first place, it is said that you are not offering these documents in evidence, you are simply reading them, and they must be offered in evidence so that the document itself may be put in evidence. You have not offered in evidence any of these documents; you have just been reading from them or have given them numbers.

M. DUBOST: Mr. President, I have submitted them all—absolutely all—except those which were already submitted by our colleagues; and all were filed with a number, and can be handed to you immediately. I shall ask the French secretary to hand them to you with the exhibit numbers which I read out.

THE PRESIDENT: They have all been put in evidence already?

M. DUBOST: Mr. President, some have been put in evidence and I quoted them with their exhibit numbers; but those which have not been submitted, I shall give French numbers when submitting.

THE PRESIDENT: You are saying, "have been put in evidence by some other member of the Prosecution"; is that right?

M. DUBOST: That is correct, Mr. President. When I quote them I give the number under which they were filed by my American colleagues.

THE PRESIDENT: That was filed by the American Prosecution, was it not: 498?

M. DUBOST: 498-PS on Page 32 has already been filed by my American colleagues under the Number USA-501, as I said before, sir. I shall not read it. I shall merely comment on it briefly.

THE PRESIDENT: Very well. With reference to the document which preceded it on Pages 27, 29, 30, and 31 . . .

M. DUBOST: I shall ask the French secretary to give them to you with the numbers under which they were filed.

THE PRESIDENT: Have they been filed by the American prosecutor too?

M. DUBOST: Not all, Mr. President. Some were filed by the American Prosecution, others were filed by me.

THE PRESIDENT: What the Tribunal wants you to do is, when you put in a document, if it has not already been put in, give it a number and announce the exhibit number so that the record may be complete. Is that clear?

M. DUBOST: It is clear, Mr. President, but I believe that I have done so from the beginning, since the French secretary has just given you the file.

THE PRESIDENT: You may have put numbers on the documents, but you have not announced them in some cases.

There is another matter which I wish to state and it is this: When I spoke before, what I asked you to do was to confine yourself to any new points, and you are now giving us evidence about commandos and about British commandos, all of which has been already gone into in previous stages of the Trial, and that appears to us to be unnecessary.

M. DUBOST: The Tribunal will pardon me, but I have not read any of the documents already mentioned. The documents I read were documents not cited before. I had just reached a document which

had been mentioned before, and I asked the Tribunal to excuse me from even commenting on it, since I thought the document was already well known to the Tribunal.

THE PRESIDENT: Well, we have had a good deal of evidence already about the treatment of commandos and sabotage groups, evidence, if I remember right, which attempted to draw some distinction between troops which were dropped from the air, for instance, close up to the battle zone and troops that were dropped at a distance behind the battle zone. You had quite a lot of evidence upon that subject. If there is anything which is of special interest to the case of France we would be most willing to hear it, but we do not desire to hear cumulative evidence upon subjects which we have already heard.

M. DUBOST: I did not think that I had brought cumulative proof to the Tribunal in reading documents which had not previously been read; but since that is so, I shall continue, but not without emphasizing that, in our view, the responsibility of Keitel is seriously involved by the orders which were given and by the execution of these orders.

Document Number 510-PS, Page 48, has not been read. We submit it as Exhibit Number RF-367, and we ask the Tribunal to take judicial notice of it. It concerns the carrying out of the orders which were given concerning the landing of British detachments at Patmos.

A memorandum from the General Staff to the commander of the different units, Document Number 532-PS, which is the appendix to the Tribunal's document book, repeats and specifies the instructions which the Tribunal knows and does not bring anything new to the case. We submit this document as Exhibit Number RF-368, and we ask the Tribunal to take judicial notice of it.

We shall now deal with the execution of Allied airmen who were captured. From the statement which was made on this question, the Tribunal has learned that a certain number of air operations were considered as criminal acts by the German Government, which indirectly encouraged the lynching of the airmen by the population or their immediate extermination by the action "Sonderbehandlung" (special treatment); and need not be discussed again. This was the subject of Document Number USA-333, which has already been cited, and Document Number USA-334.

Within the scope of these instructions, orders were given by the letter of 4 June 1944 to the Minister of Justice to forbid any prosecution of German civilians in connection with the murder of Allied airmen. This is the subject of Document Number 635-PS, which you

will find in the appendix to the document book. This document will become Exhibit Number RF-370.

"The Reich Minister and Head of the Reich Chancellery, 4 June 1944.

"To the Reich Minister of Justice, Doctor Thierack.

"Subject: Lynch law for Anglo-American murderers.

"My dear Dr. Thierack:

"The Chief of the Party Chancellery has informed me of his secret memorandum, a copy of which is enclosed, and has asked me to make it known to you also. I am complying with this, and ask you to consider to what extent you wish to inform the tribunals and the public prosecutors."

On 6 June, two important conferences were held between Kaltenbrunner, Ribbentrop, Göring (all three defendants), Himmler, Von Brauchitsch, officers of the Luftwaffe, and members of the SS. They decided to draw up a definite list of air operations which would be considered as acts of terrorism.

The original transcript, drawn up by Warlimont and bearing written notes by Jodl and Keitel, is Document Number 735-PS, which I submit as Exhibit Number RF-371. It was decided during this conference that lynching would be the ideal punishment to stop certain types of air operations directed against the civilian population. Kaltenbrunner, for his part, promised the active collaboration of the SD.

THE PRESIDENT: Was it already read?

M. DUBOST: This document, so far as I know, was never read.

PROFESSOR DOCTOR FRANZ EXNER (Counsel for Defendant Jodl): I am protesting against the presentation of Document 532-PS, dated 24 June 1944. That is a draft of an order which was presented to Jodl but which was crossed out by him and therefore annulled.

At this opportunity I would also like to call the attention of the Court to the fact that we, the Counsel for the Defense, did not receive a document book like the one presented to the Tribunal; and it is therefore very hard for us to check and to follow the presentations of the Prosecution. Every morning we receive a pile of documents, some of which partly refer to future and some to past proceedings. But I have not seen a document book in chronological order for weeks. Furthermore, it would be desirable for us to receive the documents the day before. In that case, when testimony is presented, we could be of assistance to both sides.

THE PRESIDENT: Dr. Exner, are you saying that you have not received the document book or that you have not received the dossier?

DR. EXNER: I did not receive the document book. I would like to add something further. Some of the documents which have just been presented were quoted without signatures and without date, and it is questionable whether these so-called documents are to be considered as documents at all.

THE PRESIDENT: Well, I imagine that you have just heard—I have told M. Dubost that he must announce the exhibit number which the French Prosecutor is giving to any document which he puts in evidence. As I understand it, he has been putting numbers upon the documents; but in certain cases he has not announced the number in open court. The document, as you have seen, has been presented; and, as I understand, it has a number upon it, but he has not in every case announced the number; and the Tribunal has told M. Dubost that it wishes and it orders that every document put in by the French Prosecutor should have an exhibit number announced in Court. That meets the one point that you raised.

As to your not having the document book, that is, of course, a breach of the order which the Tribunal has made that a certain number of copies of the documents should be deposited in the defendants' Information Center or otherwise furnished to defendants' counsel.

As to Document 532-PS . . . .

[There was a pause in the proceedings while the Judges conferred.]

Dr. Exner, is there anything further you wish to say upon these points, because we are just about to have a recess for a few moments. We would like to hear what you have to say before we have the recess.

DR. EXNER: I have nothing further to add to that; but if I may be permitted to make a further remark, we were advised that it was Your Honor's wish that we should hear every day what is to be the subject of the proceedings on the following day, which would, of course, be a great help to our preparations. So far, that has never been the case. I myself have never heard what was to be dealt with the following day.

THE PRESIDENT: Thank you. M. Dubost, the Tribunal would like to hear what you have to say upon the points raised by Dr. Exner. First of all, upon the Document 532-PS; secondly, why he did not receive a document book; and lastly, why he has not received any program as to what is to be gone into on the following day.

M. DUBOST: As to the question of program, as Dr. Exner pointed out, the custom of providing it has not been established by

the Prosecution. No one has ever given it, neither the French Prosecution nor its predecessors. Perhaps I did not attend the session the day the Tribunal requested that the program should be given. In any case I do not remember that the Prosecution was ever requested to do that.

As far as the document book is concerned, it is possible that this book was not handed to the Defense in the form which is before the Tribunal, that is to say, with the pages numbered in a certain order. However, I am certain that yesterday I sent to the Defense Counsel's rooms the text in German and several texts in French of all the documents which I was to submit today. I cannot assure the Tribunal that they were handed over in the order in which you have them before you, but I am sure that they were sent.

THE PRESIDENT: As to Document 532-PS?

M. DUBOST: I had not begun to read Document 532-PS, Mr. President, so I could not have concealed the fact that there was a handwritten note in the margin.

THE PRESIDENT: Is it a document that had been put in before?

M. DUBOST: I do not believe so, Mr. President. In my dossier there are a certain number of documents which I have not read, as I knew it was the Tribunal's wish that I should shorten my presentation; and Document 532-PS, which I submitted under Exhibit Number RF-368, is one of those.

THE PRESIDENT: The document, according to Dr. Exner, is a draft of a decree which was presented to Jodl but was not granted by him. Those were his words, as they came through on the translation; and, therefore, he submits that it is not to be considered and there is nothing to show that the document was ever anything more than a draft.

If so, isn't it clear that it ought not to be received in evidence?

M. DUBOST: This is a question which the Tribunal will decide after having heard the explanation of Dr. Exner. This document did not seem to me of major importance to my presentation, since I did not read from it. In any case, as I did not read it, I could not have hidden from the Tribunal that there was a handwritten note in the margin. It is certain that this handwritten note is an element to be taken into consideration, and on which the Tribunal will base its decision whether Exhibit Number RF-368 should be accepted or rejected, after having heard the explanation of the Defense.

[A recess was taken.]

DR. NELTE: Mr. President, I had occasion during the recess to talk to my client, Keitel. Before the recess, the French Prosecutor had submitted as evidence Document Number F-668, Exhibit Number RF-361, an extract from a note from Admiral Darlan, addressed to the French Ambassador Scapini. The French Prosecutor believes, as I presume from his words, that he has proved by this that the agreements between German generals and French troops, who had laid down their arms, had not been kept. In view of the gravity of these accusations I would be obliged to the French Prosecution if they would declare, with respect to this document, first, whether these serious accusations of the French Government had also been brought to the attention of the German Government? The French Prosecutor had concluded from this document that the information contained therein was also proved. I would like to point out that it is an excerpt from a note from Admiral Darlan to the French Ambassador, Scapini. It is not clear from this document whether Ambassador Scapini had taken the necessary steps with the German Government or, furthermore, what reply was made by the German Government to this note. For this reason I would like to ask the French Prosecutor to declare whether he can establish from the documents he had whether these serious accusations were brought to the attention of the German Government, and secondly, what reply was made by the German Government. Since these documents of the Armistice Commission are in possession of the victorious powers, it is neither possible for the defendants nor the Defense to produce evidence themselves.

[M. Dubost approached the lectern.]

THE PRESIDENT: *[Turning to M. Dubost.]* Perhaps the most convenient course would be, if you wish to say anything about the objection which Dr. Nelte has just made, for you to say it now. As I understand it, that objection is that this document, F-668 (RF-361), is a note by Admiral Darlan complaining that certain French troops were surrendered on the terms that they were not to be made prisoners of war, but were afterwards sent to Germany as prisoners of war. What Dr. Nelte says is, was that matter taken up with the German Government and if so, what answer did the German Government give? That seems to the Tribunal to be a reasonable request for Dr. Nelte to make.

M. DUBOST: The reply was given, Mr. President, by Ambassador Scapini's letter addressed to Ambassador Abetz.

THE PRESIDENT: My attention is drawn to the fact that the two documents to which you refer are dated 4 April. The document to which Dr. Nelte refers is a subsequent document, namely, 22 April. Therefore it does not appear, from documents which were anterior to the document of 22 April, as to what happened afterwards.

M. DUBOST: Mr. President, I, myself, am not aware of this. These documents were forwarded to me by the Prisoners-of-War Department. They are fragmentary archives forwarded by an official French office, which I shall inform of the Tribunal's wish.

THE PRESIDENT: Perhaps it should be investigated and found out whether the matter was taken up with the German Government and what answer the German Government gave.

M. DUBOST: I shall do so, Mr. President.

THE PRESIDENT: Not at the moment, but in the course of time.

M. DUBOST: I shall have to apply to the French Government in order to discover whether in our archives there is any trace of a communication from the French Government to the German Government dated later than 26 April.

THE PRESIDENT: In the event of your not being able to get any satisfactory explanation, the Tribunal will take notice of Dr. Nelte's objection, or criticism rather, of the document.

It is pointed out to me, too, the fact that the two earlier documents to which you are referring are documents addressed by the Ambassador of France to M. Abetz, the Ambassador of Germany; and it may be, therefore, that there is a similar correspondence in reference to Document Number F-668 (Exhibit Number RF-361) here in the same file, which is the file of which the French Government presumably has copies, or might have copies.

M. DUBOST: It is possible, but that is only a hypothesis which I do not want to formulate before the Tribunal. I prefer to produce the documents.

THE PRESIDENT: I quite follow; you cannot deal with it for the moment. As to the other matter which is raised by Dr. Exner, the Tribunal considers that Document Number 532-PS, which has been submitted under Exhibit Number RF-368, should be struck out of the Record in so far as it is in the Record. If the United States and the French Prosecutors wish the document to be put in evidence at a future date, they may apply to do so. Similarly the defendant's counsel, Dr. Exner, for instance, if he wishes to make any use of the document, of course he is at liberty to do so.

In reference to the other matters which Dr. Exner raised, it is the wish of the Tribunal to assist defendants' counsel in any way possible in their work; and they are, therefore, most anxious that the rules which they have laid down as to documents should be strictly complied with, and they think that copies of the original documents certainly should contain anything the original documents themselves contain.

This particular document, Number 532-PS, as a copy, I think I am right in saying, does not contain the marginal note in the script which the original contains. At any rate it is important that copies should contain everything which is on the originals.

Then there is another matter to which I wish to refer. I have already said that it is very important that documents, when they are put in evidence, should not only be numbered as exhibits, but that the exhibit number should be stated at the time; and also even more important, or as important, that the certificate certifying where the document comes from should also be produced for the Tribunal. Every document put in by the United States bore upon it a certificate stating where it had been found or what was its origin, and it is important that that practice should be adopted in every case.

The only other thing I want to say is that it would be very convenient, both to defendants' counsel and to the Tribunal too, that they should be informed at least the night before of the program which counsel proposes to adopt for the following day. It is true, as was said, that perhaps that has not been absolutely regularly carried out by the Prosecutor on all occasions; but it has been done on quite a number of occasions within my recollection, and it is at any rate the most convenient practice, which the Tribunal desires should be carried out; and they would be glad to know above all what you, M. Dubost, propose to address yourself to tomorrow; and the Tribunal would be very grateful to know how long the French Prosecutors anticipate their case will take. They would like you, before you finish or at the conclusion of your address this afternoon, to indicate to the Tribunal and to the defendants' counsel, what the program for tomorrow is to be.

SIR DAVID MAXWELL-FYFE: If Your Honor please, I wonder if I could say one word in regard to the position as to documents, because I had an opportunity during recess of consulting with my friend Mr. Dodd, and also with my friend M. Dubost. All PS documents form a series of captured documents, whose origin and the process taken subsequent to the article, were verified on 22 November by an affidavit by Major Coogan, which was put in by my friend Colonel Storey. It is the submission of the Prosecution, which, of course, it is delighted to elaborate any time convenient to the Tribunal, that all such documents being captured and verified in that way are admissible. I stress the word admissible, but the weight which the Tribunal will attach to any respective documents is, of course, a matter at which the Tribunal would arrive from the contents of the document and the circumstances under which it came into being. That, I fear, is the only reason I ventured to intervene at the moment, that there might be some confusion

between the general verification of the document as a captured document, which is done by Major Coogan's affidavit, and the individual certificate of translation, that is, of the correctness of the translation of the different documents, which appeared at the end of each individual American document. The fact is that my friend, Mr. Dodd, and I were very anxious that that matter should be before the Tribunal, and we should be only too delighted to give to the Tribunal any further information which it desires.

THE PRESIDENT: Does that affidavit of Major Coogan apply to all the other series of documents put in by the United States?

SIR DAVID MAXWELL-FYFE: It applies to PS and I think it is D, C, L, R and EC.

THE PRESIDENT: Does that certificate then cover this particular sheet of paper which is marked 532-PS, and has on it no other identifying mark?

SIR DAVID MAXWELL-FYFE: Yes. The affidavit proves that that was a document captured from German sources; it gives the whole process—what happens after. I have not troubled the Tribunal by reading it, because as such we submit that it is admissible as a submission. Of course, the matter of weight may vary. I do not want the Tribunal to be under a misapprehension that every document was certified individually; what is certified is, of course, a non-captured document. If a document comes from any of the sources mentioned in Article 21, then someone with authority from his government certifies it as coming from one of these sources and that we do individually. But concerning captured documents, we do not make any individual certification; we depend on Major Coogan's affidavit.

THE PRESIDENT: Yes, but just a moment. Sir David, it is perhaps right to say in reference to this particular document, 532-PS, or the portion of it which has been produced, first of all that the copy which was put before us did not contain the marginal note, and that it is, therefore, wrong. We are in agreement with your submission that it has been certified, as you say, by Major Coogan's affidavit, which is admissible; but, of course, that has nothing to do with its weight. That is the point on which Dr. Exner was addressing us.

SIR DAVID MAXWELL-FYFE: So I appreciated it, Your Honor.

THE PRESIDENT: It is a document—being a private document and not a document of which we can take judicial notice—which has not been read in court by the United States or other prosecutors, and it is not in evidence now because it has not been read by M. Dubost.

SIR DAVID MAXWELL-FYFE: Your Honor, with that, of course, I do not desire anything further. That is the ruling of the Tribunal. The only part that I did want to stress was that the PS as such is being verified and, of course, subject to reading it in Court, it could be put in.

THE PRESIDENT: Thank you. We quite understand that.

I ought to say, on behalf of the Tribunal, that we owe an apology to the French Prosecutor and his staff, because it has just been pointed out to me that this marginal note does appear upon the translation and, therefore, M. Dubost, I tender to you my apology.

M. DUBOST: I thank you, Mr. President. The Tribunal will certainly remember that this morning Document Number 1553-PS was set aside, which includes in it bills for gas destined for Oranienburg and Auschwitz. I believe that, after the explanation given by Sir David, this Document 1553-PS may now be admitted by the Tribunal since it has already been certified.

THE PRESIDENT: Was it read, M. Dubost?

M. DUBOST: Yes, Mr. President. I was in the process of reading it this morning. It is the 27th document in the second document book of this morning, but the Tribunal rejected it, with the demand that I furnish an affidavit. The intervention of Sir David constitutes this affidavit. I beg the Tribunal to forgive my making this request, but I should be grateful if it would accept the document which was refused this morning.

THE PRESIDENT: Very well.

M. DUBOST: I thank you, Mr. President.

THE PRESIDENT: M. Dubost, it was a question of gas, was it not?

M. DUBOST: That is right.

THE PRESIDENT: There was one bill of lading and then there were a number of other bills of lading which were referred to.

M. DUBOST: Yes. And the whole constituted Document Number 1553-PS, submitted under Exhibit Number RF-350. This document is included in the series covered by the affidavit of which Sir David has spoken to you.

THE PRESIDENT: M. Dubost, if you attach importance to it, would it not be possible for you to give us the figures from these other bills of lading? I mean the amount of the gas.

M. DUBOST: Certainly, Mr. President.

THE PRESIDENT: Just in order that it may be upon the shorthand note.

M. DUBOST: 14 February 1944, gross weight 832 kilos, net weight 555 kilos (destination Auschwitz); 16 February 1944, gross weight 832 kilos, net weight 555 kilos (destination Oranienburg); 13 March 1944, gross weight 896 kilos, net weight 598 kilos (destination Auschwitz); 13 March 1944, gross weight 896 kilos, net weight 598 kilos (destination Oranienburg); 30 April 1944, gross weight 832 kilos, net weight 555 kilos (destination Auschwitz); 30 April 1944, gross weight 832 kilos, net weight 555 kilos (destination Oranienburg); 18 May 1944, gross weight 832 kilos, net weight 555 kilos (destination Oranienburg); 31 May 1944, gross weight 832 kilos, net weight 555 kilos (destination Auschwitz). This appears to me to be all.

To Document 1553-PS is added the statement by Gerstein, and also the statement by the chief of the American service who collected this document.

With the permission of the Tribunal, I shall proceed with the presentation of the crimes of which we accuse the defendants against Allied prisoners of war who were interned in Germany. Document Number 735-PS, Page 68 of the document book, which we submitted a short time ago under Exhibit Number RF-371, is a report on important meetings which brought together Kaltenbrunner, Ribbentrop, and Göring, in the course of which the list of air operations which constituted acts of terrorism was drawn up.

It was decided in these meetings that lynching would be the ideal punishment for all actions directed against civilian populations, which the German Government claimed had the character of terrorism.

On Page 68 Ribbentrop is involved. We read in one of the three copies of the notes of the meetings that were held that day, in the first paragraph, 11th line:

> "Contrary to the first proposals of the Minister of Foreign Affairs, who wanted to include all terrorist attacks against the civilian population and consequently air attacks against cities . . . ."

The proposals made by Ribbentrop were far in excess of what was accepted at the time of this meeting. The three lines which follow deserve the attention of the Tribunal:

> "Lynch law should be the rule. There was, on the other hand, no question of a judgment rendered by a tribunal or handing over to the police."
>
> In Paragraph b), bottom of the page:
>
> ". . . one would have to distinguish between enemy airmen who were suspected of criminal acts of this kind and prepare for their admission in the airmen's camp at Oberursel, and

those who should be turned over to the SD for special treatment when the suspicions were confirmed."

The Tribunal will certainly remember the description which was given of this "special treatment" by the American prosecution. What is involved is purely and simply the extermination of Allied airmen who had fallen into the hands of the German Army.

On Page 69 the Tribunal may read, under Figure 3, the description and the enumeration of the acts which are to be considered as terrorist acts and as justifying lynching.

"(a) Firing weapons at the civilian population, and gatherings of civilians.

"(b) Firing at German airmen who have bailed out of their aircraft.

"(c) Firing weapons at passenger trains and public conveyances.

"(d) Firing weapons at hospital or hospital trains that are clearly marked with a red cross."

Three lines below:

"Should such acts be established in the course of interrogation, the prisoners must be handed over to the SD."

This document originates from the Führer's headquarters. It was drawn up there on 6 June 1944, and it bears the stamp of the Deputy Chief of Staff of the Wehrmacht.

THE PRESIDENT: I think that has all been read, M. Dubost. I think that document was all read before.

M. DUBOST: Mr. President, I was told that it had not been read.

THE PRESIDENT: I have not verified it.

M. DUBOST: We submit Document Number 729-PS, as Exhibit Number RF-372. This document confirms the preceding one. It originates from the Führer's headquarters, is dated 15 June 1944, and reiterates the orders I have read. But this document is signed by General Keitel, whereas the preceding one was signed "J." We have not been able to identify the author of this initial.

Document Number 730-PS, which we next submit as Exhibit Number RF-373, is likewise from the Führer's headquarters, and is also dated 15 June 1944. It is addressed to the Ministry of Foreign Affairs for the attention of Ambassador Ritter. The Tribunal will find it on Page 71 in the document book. This document contains the instructions signed "Keitel" in the preceding document, and it is likewise signed by Keitel.

We shall submit as Exhibit Number RF-374, Document 733-PS, which concerns the treatment which is to be meted out to airmen

falling into the hands of the German Army. It is a telephone message from the Adjutant of the Reich Marshal, Captain Breuer.

DR. NELTE: I assume that you have finished with the question of lynching. In the presentation of this case the words "Orders of Keitel" have been used repeatedly. The prosecutor has not read these documents. I would be obliged if the prosecutor would produce a document which contains an order, which raises lynch law to the level of an order, as has been claimed by the Prosecution. The Defendants Keitel and Jodl maintain that such an order was never given, that these conferences concerning which documents have been produced—that these documents never became orders because the authorities concerned prevented this.

THE PRESIDENT: The documents speak for themselves.

M. DUBOST: Does the Tribunal wish to listen to the complete reading of these documents which are signed by Keitel? They are not orders, they are projects. Moreover, I emphasized that point when I announced them to the Tribunal. At Page 80 of our document book, you will find, dated 30 June 1944, with Keitel's visa:

"Note for meeting.

"Subject: The treatment of enemy terror flyers:

"I. Enclosed, draft of written reply by the Reich Minister of Foreign Affairs to the Chief of the OKW for the Operational Staff of the Wehrmacht."

I am skipping a paragraph:

"II. The Reich Marshal approves the definition of terror flyer communicated by the OKW, as well as the procedure which is proposed."

This document is submitted as Exhibit Number RF-375. I have not submitted to the Tribunal a regular formal order; but I have brought three documents which, in my opinion, are equivalent to a formal order because, with the visa of Keitel, we have this note, signed by Warlimont, which states: "The Reich Marshal approves the definition of terror flyer communicated by the OKW, as well as the procedure which is proposed." This document bears the visa of Keitel.

We shall now submit a document, Number L-154, which has already been submitted by our American colleagues under Exhibit Number USA-335. My colleague has read this text *in extenso.* I will merely refer to three lines, in order not to delay the proceedings, "In principle, no fighter-bomber pilots brought down are to be saved from the fury of the people." That text comes from the offices of Albert Hoffmann, Gauleiter and Commissioner for the Defense of the Reich, of the Gau South Westphalia.

Under Exhibit Number RF-376 we shall submit Document Number F-686, on Page 82 of our document book. This is the record of an interrogation of Hugo Grüner on 29 December 1945. He was subordinate to Robert Wagner, Gauleiter of Baden and Alsace. In the last lines of this document, Page 82, Grüner states:

> "Wagner gave a formal order to kill all Allied airmen we could capture. In this connection Gauleiter Wagner explained to us that Allied airmen were causing great ravages on German territory, that he considered it was an inhuman war, and that therefore, under the circumstances, any airmen captured should not be considered as prisoners of war and deserved no mercy."

Page 83, at the top of the page:

> "He stated that Kreisleiter, if the occasion offered, should not fail to capture and shoot the Allied airmen themselves. As I have told you, Röhm was assistant to Wagner, but Wagner himself did not speak. I can state that SS General Hoffmann, who was SS chief of the police for the Southwest Region, was present when the order was given to us by Wagner to kill Allied airmen."

This witness, Hugo Grüner, confesses that he participated in the execution of Allied airmen in October or November 1944.

Passing through Rheinweiler, he (Grüner) noticed that some English or American airmen had been taken out of the Rhine by soldiers. The four airmen were wearing khaki uniforms, were bareheaded, and were of average height. He could not speak to them because he did not know the English language. The Wehrmacht refused to take charge of them.

That is the third paragraph at the bottom of the page and the witness declares—I am reading:

> "I told the gendarmes that I had received orders from Wagner to execute any Allied airman taken prisoner. The gendarmes replied that it was the only thing to be done. I then decided to execute the four Allied prisoners and one of the gendarmes present advised the banks of the Rhine as the place of execution."

On Page 84, Paragraph 1, Grüner describes how he proceeded to assassinate these airmen and admits that he killed them with machine gun shots in the back. In the third paragraph he gives the name of one of his accomplices, Erich Meissner, who was a Gestapo agent from Lorrach, and then he denounces Meissner for having himself killed an airman as he was getting out of his car and was walking toward the Rhine. I read:

"He killed them by firing a machine gun salvo at each of them in the back, after which each airman was dragged by the feet and thrown into the Rhine."

This affidavit was received by the Police Magistrate of Strasbourg. The document which we shall submit was signed by the magistrate's clerk of the court as a certified copy. This is how the orders given by the leaders of the German Government were carried out by the German people.

THE PRESIDENT: M. Dubost, I see that it is 5 o'clock now, and perhaps you would be able to tell us what your program would be for tomorrow.

M. DUBOST: Tomorrow we shall complete the presentation of the question of prisoners of war. We shall present to you in an abridged form documents which seem to us to be indispensable, in spite of the hearing of witnesses concerning the camps. There are only a few documents, but they all directly inculpate one or other of the defendants. Then we shall show how the orders given by the leaders of the German Army led subordinates to commit acts of terrorism and banditry in France against the innocent population, and also against patriots who were not treated as *francs-tireurs* but as ordinary criminals.

We expect to finish tomorrow morning. In the afternoon, my colleague, M. Faure, could begin the presentation of this last part of the French charges concerning crimes against humanity.

THE PRESIDENT: Are you not able to give us any estimate of the length of the whole of the French Prosecution?

M. DUBOST: I believe that three days will be sufficient for M. Faure. The individual charges will be summarized in one-half day by our colleague, M. Mounier, and that will be the end.

THE PRESIDENT: The Tribunal will adjourn now.

[The Tribunal adjourned until 31 January 1946 at 1000 hours.]

FORTY-SEVENTH DAY

Thursday, 31 January 1946

Morning Session

MARSHAL: May it please the Court, I desire to announce that the Defendants Kaltenbrunner and Seyss-Inquart will be absent from this morning's session on account of illness.

M. DUBOST: Before finishing, Gentlemen, I must read you a few more documents concerning war prisoners.

First of all, it will be Document Number L-166, which we present as Exhibit Number RF-377, Page 65 in your document book. It concerns a note which summarizes an interview with the Reich Marshal, on 15 and 16 May 1944, on the subject of pursuit planes. Page 8, Paragraph Number 20:

> "The Reich Marshal will propose to the Führer that American and English crews who fire indiscriminately on towns, on civilian trains in motion, or on soldiers dropping by parachute, shall be shot immediately on the spot."

The importance of this document need not be emphasized. It shows the guilt of the Defendant Göring in reprisals against Allied airmen brought down in Germany.

We shall now read Document R-117, which we submit as Exhibit Number RF-378. Two Liberators, brought down on 21 June 1944 in the District of Mecklenburg, came to earth with their crews intact, 15 men all told. All were shot on the pretext of attempting to escape. The document was found in the files of the headquarters of the 11th Luftgaukommando, and states that nine members of one crew were handed over to the local police. In the next to the last paragraph, third line, we read that they were made prisoners and handed over to the police in Waren. Lieutenants Helton and Ludka were handed over on 21 June 1944 by the protective police to SS Untersturmführer Stempel, of the Security Police, and former Commissioner of the Criminal Police, at Fürstenberg:

> "These seven prisoners were shot *en route* while attempting to escape.
>
> "Lieutenants Helton and Ludka were also shot on the same day while attempting to escape."

Regarding the second Liberator, at Page 91 we read:

> "Subject: Crash of a Liberator on 21 June 1944, at 11:30 a.m. . . . six members of the crew shot while attempting to escape;

one, seriously wounded, brought to the garrison hospital at Schwerin."

We now submit as Exhibit Number RF-379, Document F-553, which the Tribunal will find on Page 101 of the document book. This document concerns the internment in concentration camps and extermination camps of prisoners of war. Among the escaped prisoners a discrimination was made. If they were privates and noncommissioned officers who had agreed to work, they were generally sent back to the camp and punished in conformity with Articles 47, and following, of the Geneva Convention. If it was a question of officers or noncommissioned officers—this is a comment I am making on the document which I shall read to the Tribunal—if it was a question of officers or noncommissioned officers who had refused to work, they were handed over to the police and generally murdered without trial.

One can understand the aim of this discrimination. Those French noncommissioned officers who, in spite of the pressure of the German authorities, refused to work in the German war industry had a very high conception of their patriotic duty. Their attempt to escape, therefore, created against them a kind of presumption of inadaptability to the Nazi order, and they had to be eliminated. Extermination of these elite assumed a systematic character from the beginning of 1944; and the responsibility of Keitel is unquestionably involved in this extermination, which he approved if he did not specifically order.

The document which the Tribunal has before it is a letter of protest by General Bérard, head of the French Delegation to the German Armistice Commission, addressed to the German General Vogl, the president of the said commission. It deals specifically with information reaching France concerning the extermination of escaped prisoners.

First paragraph, fourth line:

"This note reveals the existence of a German organization, independent of the Army, under whose authority escaped prisoners would come."

This note was addressed on 29 April 1944 by the commandant of Oflag X-C. I read from Page 102:

"Captain Lussus"—declares General Bérard to the German Armistice Commission—"of Oflag X-C, and Lieutenant Girot, of the same Oflag, who had made an attempt to escape on 27 April 1944, were recaptured in the immediate vicinity by the camp guard.

"On 23 June 1944 the French senior officer of Oflag X-C received two funeral urns containing the ashes of these two officers. . . ."

No particulars could be given to this French officer as to the cause of the deaths of Captain Lussus and Lieutenant Girot. General Bérard pointed out at the same time to the German Armistice Commission that the note—which the Tribunal will find on Page 104—had been communicated by the commandant of Oflag X-C to the French senior officer at that Oflag:

> "You will bring to the attention of your comrades the fact that there exists, for the control of people moving about unlawfully, a German organization whose field of action extends over regions in a state of war from Poland to the Spanish frontier. Each escaped prisoner who is recaptured and found in possession of civilian clothes, false papers and identification cards, and false photographs, falls under the authority of this organization. What becomes of him then, I cannot tell you. Warn your comrades that this matter is particularly serious."

The last two lines of this note assumed their full significance when the urns containing the ashes of the two escaped French officers were handed to the senior officer of the camp.

Our Soviet colleagues of the Prosecution will present the conditions under which the escapes of the officers from the Sagan Camp were repressed.

THE PRESIDENT: Was there any answer to this complaint? What you have just been reading, as I understand it, is a complaint made by the French general, Bérard, to the German head of the Armistice Commission, is that right?

M. DUBOST: Mr. President, I do not know if there was an answer. I know only that the archives in Vichy at the time of the liberation were partly pillaged and partly destroyed through military action. If there was an answer we would have had it in the Vichy archives, for the documents we present now are the documents from the German archives of the German Armistice Commission. As to the French archives, I do not know what has become of them. In any case it is possible they may have disappeared as a result of military action.

I was about to inform the Tribunal that my Soviet colleagues would set forth the conditions under which repressive measures were carried out at the camp of Sagan for attempts to escape.

We submit as Exhibit Number RF-380, Document Number F-672, which the Tribunal will find on Page 115 of its document book. This is a report from the Service for War Prisoners and Deportees, dated 9 January 1946, which relates to the deportation to Buchenwald of 20 French prisoners of war. This report must be considered as an authentic document, as well as the reports of war prisoners which

are annexed thereto. On Page 116 is the report of Claude Petit, former prisoners' representative in Stalag VI-G.

"In September 1943 the French civilian workers in Germany and the French prisoners of war who had been converted"—that means converted into workers—"were deprived of all spiritual help, there being no priest among them. Lieutenant Piard, head chaplain of Stalag VI-G, after having spoken with the prisoners of war chaplain, Abbé Rodhain, decided to turn into workers six prisoner-of-war priests who volunteered to exercise their ministerial functions among the French civilians.

"This change in classification of priests was difficult to accomplish, as the Gestapo did not authorize the presence of chaplains among civilian workers. . . ."

These priests and a few scouts organized a scout group, and a group of Catholic Action.

On Page 117:

"From the beginning of 1944 the priests felt themselves being watched by the Gestapo in their various activities. . . .

"At the end of July 1944, the six priests were arrested almost simultaneously and taken to the prison of Brauweiler, near Cologne. . . ."

Page 118, the same happened to the scouts. I quote:

"Against this flagrant violation of the Geneva Convention I took numerous steps and made several protests; for the prisoners of war arrested by the Gestapo I even asked the reason for their arrest. . . .

"Owing to the rapid advance of the allies, who were approaching Aachen, all the prisoners of Brauweiler were taken to Cologne. . . ."

[Dr. Stahmer approached the lectern.]

M. DUBOST: Mr. President, before allowing the Defense Counsel to interrupt, permit me to finish reading this document.

THE PRESIDENT: Continue.

M. DUBOST: Thank you, Mr. President. With the end of this paragraph the Tribunal learns that the German military authorities themselves took steps in order to learn the fate of these prisoners:

"The military authorities having no knowledge thereof, immediately undertook correspondence with Buchenwald, correspondence which remained without answer."

And again:

"At the beginning of March, Major Bramkamp, chief of the Abwehr group, had to go personally to Buchenwald. . . ."

On Pages 120-121 the Tribunal will find the list of the prisoners who thus disappeared.

On Page 122 there is a confirmation of this testimony by M. Souche, prisoners' representative at Kommando 624, who writes:

"... certain war prisoners, converted into workers, and French civilian workers had organized in Cologne a Catholic Action group under the direction of the re-classified war-prisoner priests, Pannier and Cleton...."

Finally, Page 123:

"... the arrests began with members of the Catholic Action"—and the accusations were—"anti-German maneuvers...."

THE PRESIDENT: I do not know what Dr. Stahmer's objection is.

DR. OTTO STAHMER (Counsel for Defendant Göring): We are not in a position to follow the exposé of the French Prosecutor. First of all, the translation is not very good. Some sentences are left out. Especially, wrong numbers are mentioned. For instance, 612 has been mentioned. I have it here. It is quite a different document. We have not the document books and therefore we cannot follow the page citations. Also my colleagues complain that they are not in a position to follow the proceedings under this manner of presentation.

THE PRESIDENT: May I see your document?

[The document was handed to the President.]

DR. STAHMER: This number was just mentioned, as can be confirmed by the other gentlemen.

THE PRESIDENT: The document which M. Dubost was reading was 672. The Document you have got there is a different number.

DR. STAHMER: But this was the number that came through to us, 612, and not only I, but the other gentlemen heard the same number. And not only this number, but all the numbers have been given incorrectly.

Another difficulty is that we have not the document book. Page 118 had been referred to, but the number of the page does not mean anything to us. We cannot follow at this rate.

THE PRESIDENT: M. Dubost, I think the trouble really arises from the fact that you give the numbers too fast and the numbers are very often wrongly translated, not only into German, but sometimes into English. It is very difficult for the interpreters to pick up all these numbers. First of all, you are giving the number of the document, then the number of the exhibit, then the page of the document book—and that means that the interpreters have got to translate many numbers spoken very quickly.

It is essential that the defendants should be able to follow the document; and as I understand it, they have not got the document books in the same shape we have. It is the only way we can follow. But we have them now in this particular document book by page, and therefore it is absolutely essential that you go slowly.

M. DUBOST: Mr. President, the document books, all the documents, have been handed to the Defense.

THE PRESIDENT: Are you telling us that document books have been handed to the Defense in the same shape they are handed to us, let us say, with pages on them? Speaking for myself, that is the only way I am able to follow the document. You mentioned Page 115 and that does show me where the document is. If I have not got that page, I should not be able to find the document.

M. DUBOST: Mr. President, I announced at the same time RF-380, which is the number of the exhibit. F-672 is the classification number. All our documents bear a classification number. It was not possible to hand to the Defense a document book paginated like the one the Tribunal has, for it is not submitted in the same language. It is submitted in German and the pages are not in the same place. There is not an absolute identity of pagination between the German document book and yours.

THE PRESIDENT: I am telling you the difficulties under which the defendants' counsel are working, and if we had simply a number of documents without the pagination we should be under a similar difficulty. And it is a very great difficulty. Therefore you must go very slowly in giving the identification of the document.

M. DUBOST: I shall conform to the wishes of the Tribunal, Mr. President.

THE PRESIDENT: Dr. Stahmer, the document being read was Document F-672.

DR. STAHMER: We cannot find Document 672. We have 673. We have nothing but loose sheets, and we have to hunt through them first to find the number. We have Number 673, but we have not yet found Number 672 among our documents. It is very difficult for us to follow a citation, because it takes us so much time to find the numbers even if they have been mentioned correctly.

THE PRESIDENT: I can understand the difficulty. Will you continue, M. Dubost, and do as I say, going very slowly so as to give the defendants' counsel, as far as possible, the opportunity to find the document. And I think that you ought to do something satisfactory, if possible, to make it possible for them to find that document—by pagination or some other letters. An index, for instance, giving the order in which the documents are set out.

M. DUBOST: Three days ago, two document books in French, paginated like the books which the Tribunal has before it, were handed to the Defense. We were able to hand only two to them, for reasons of a technical nature. But at the same time we handed to the Defense a sufficient number of documents in German to enable each Defense Counsel to have his file in German. Does the Tribunal ask me to collate the pages of the French document book which we submit to the Defense with the pages of a document book which we set up, when the Defense can do it and has the time to do it? Three days ago the two French document books were handed to the Defense. They had the possibility of comparing the French texts with the German texts to make sure that our translations were correct, and to prepare themselves for the sessions.

THE PRESIDENT: Go on, M. Dubost. As I say, do it slowly.

DR. STAHMER: It is not correct that we received it 3 days ago. We found this pile in our compartment yesterday evening. We simply have not had time to number these pages. As I say, this was in our compartment yesterday evening or this morning.

THE PRESIDENT: Let's go on now, M. Dubost, and go slowly in describing the identification of the document.

M. DUBOST: We shall pass to Document F-357, which will be submitted as Exhibit Number RF-381. This document deals with the carrying out of general orders concerning the execution of prisoners of war. It contains the testimony of a German gendarme who was made prisoner on 25 May 1945, and who declares (Page 127):

> "All prisoners of war, who had fallen into our hands in whatever circumstances, were to be slain by us instead of being handed over to the Wehrmacht as had been done hitherto."

This concerned an order which was given in the middle of August 1944. The witness continues:

> "This execution was to be carried out in a deserted spot."

On Page 128, the same witness gives the names of Germans who had executed prisoners of war.

We shall now submit Document 1634-PS, which will become Exhibit Number RF-382. The Tribunal will find it on Page 129 in their document book. It is a document which has not yet been read. It relates to the murder of 129 American prisoners of war which was perpetrated by the German Army in a field in the southwest, and west of Baignes in Belgium, on 17 December 1944 during the German offensive.

The author of this report summarizes the facts. The American prisoners were brought together near the crossroad. A few soldiers,

whose names are indicated, rushed across the field toward the west, hid among the trees in the high grass, in thickets, and ditches, and thus escaped the massacre of their companions. A few others who, at the moment when this massacre began, were in the proximity of a barn, were able to hide in it. They also are survivors.

Page 129:

"... the artillery and machine gun fire on the column of American vehicles continued for about 10 to 15 minutes, and then two German tanks and some armored cars came down the road from the direction of Weismes. Upon reaching the intersection, these vehicles turned south on the road toward St. Vith. The tanks directed machine gun fire into the ditch along the side of the road in which the American soldiers were crouching; and upon seeing this, the other American soldiers dropped their weapons and raised their hands over their heads. The surrendered American soldiers were then made to march back to the crossroad, and as they passed by some of the German vehicles on highway N-23, German soldiers on these vehicles took from the American prisoners of war such personal belongings as wrist watches, rings, and gloves. The American soldiers were then assembled on the St. Vith road in front of a house standing on the southwest corner of the crossroad. Other German soldiers, in tanks and armored cars, halted at the crossroad and also searched some of the captured Americans and took valuables from them...."

Top of Page 131:

"... an American prisoner was questioned and taken with his other comrades to the crossroads just referred to.

"... at about this same time a German light tank attempted to maneuver itself into position on the road so that its cannon would be directed at the group of American prisoners gathered in the field approximately 20 to 25 yards from the road...."

I again skip four lines.

"... some of these tanks stopped when they came opposite the field in which the unarmed American prisoners were standing in a group, with their hands up or clasped behind their heads. A German soldier, either an officer or a noncommissioned officer, in one of these vehicles which had stopped, got up, drew his revolver, took deliberate aim and fired into the group of American prisoners. One of the American soldiers fell. This was repeated a second time and another American soldier in the group fell to the ground. At about the same time, from two of the vehicles on the road, fire was opened

on the group of American prisoners in the field. All, or most, of the American soldiers dropped to the ground and stayed there while the firing continued, for 2 or 3 minutes. Most of the soldiers in the field were hit by this machine gun fire. The German vehicles then moved off toward the south and were followed by more vehicles which also came from the direction of Weismes. As these latter vehicles came opposite the field in which the American soldiers were lying, they also fired with small arms from the moving vehicles at the prostrate bodies in the field. . . ."

Page 132:

". . . some German soldiers, evidently from the group of those who were on guard at the crossroad, then walked to the group of the wounded American prisoners who were still lying on the ground in the field . . . and shot with pistol or rifle, or clubbed with a rifle butt or other heavy object, any of the American soldiers who still showed any sign of life. In some instances, American prisoners were evidently shot at close range, squarely between the eyes, in the temple, or the back of the head. . . ."

This deed constitutes an act of pure terrorism, the shame of which will remain on the German Army, for nothing justified this. These prisoners were unarmed and had surrendered.

The Tribunal authorized me yesterday to present the documents on which the French accusation is based for establishing the guilt of Göring, Keitel, Jodl, Bormann, Frank, Rosenberg, Streicher, Schirach, Hess, Frick, the OKW, OKH, OKL, the Reich Cabinet, and the Nazi Leadership Corps, as well as of the SS and the Gestapo, for atrocities committed in the camps. I shall be very brief. I have very few new documents to present.

The first concerns Kaltenbrunner. It is the American Document L-35 which the Tribunal will find on Page 246 of the document book concerning concentration camps, that is the second book. This document has not been submitted. It is the testimony of Rudolf Mildner, Doctor of Law, Colonel of the Police, who declares:

"The internment orders were signed by the Chief of the Sipo and SD, Dr. Kaltenbrunner, or, as deputy by the head of Amt IV, SS Gruppenführer Müller."

In submitting this it becomes Exhibit Number RF-383 (bis).

Concerning Göring we submit the American Document 343-PS, Exhibit Number RF-384. This is a letter from Field Marshal Milch to Wolff. This letter concludes with this phrase:

"I express to the SS the special thanks of the Commander-in-Chief of the Luftwaffe for the aid they have rendered."

Now, from what precedes, one can conclude that these thanks refer to the biological experiments of Dr. Rascher. Thus, Göring is involved in these.

The German SS Medical Corps is implicated. This one can gather from Document 1635-PS, which has not yet been handed to the Tribunal, which becomes Exhibit Number RF-385, and which the Tribunal will find in the annex of the second document book. These are extracts from reviews of microscopic and anatomical research. They deal with experiments made on persons who died suddenly, although in good health. The circumstances of their death are stated by the experimenters in such a way that no reader can be in any doubt as to the conditions under which they were put to death.

With the permission of the Tribunal, I shall read a few brief extracts. Page 132 of the document which we submit to the Tribunal:

> "The thyroid glands of 21 persons between 20 and 40 years of age, who were in supposedly good health and who suddenly died, were examined.
>
> "The persons in question, 19 men and 2 women, until their death lived for several months under identical conditions, also with regard to food. The last food taken consisted chiefly of carbohydrates.
>
> "Replacement products and examination methods:"—that is the title.
>
> "Over a considerable period, substance for experiments was taken from the livers of 24 adults in good health, who suddenly died between 5 and 6 o'clock in the morning."

On examining these documents, as well as the originals, the Tribunal will see that German medical literature is very rich in experiments carried out on "adults in good health who died suddenly between 5 and 6 o'clock in the morning."

No one in Germany could be deceived as to the conditions under which these deaths occurred, since the accounts of the SS doctors' experiments in the camps were printed and published.

One of the last documents is F-185(b), and (a), relative to an experiment with poisoned bullets carried out on 11 August 1944, in the presence of SS Sturmbannführer Dr. Ding and Dr. Widmann—Page 187 of the second document book concerning concentration camps. These two documents are submitted as Exhibit Numbers RF-386 and RF-387. The Tribunal will find the description of this experiment, in which the victims are described as persons sentenced to death.

THE PRESIDENT: The document has been read already, I think.

M. DUBOST: It is a document from the French archives. However, Mr. President, I doubt whether the Tribunal has heard Document F-185(b), Exhibit RF-386, which is the opinion of the French professor, M. May, Fellow of Surgery, to whom the pseudo-scientific documents to which I alluded just now were submitted—the reports from scientific reviews of experiments. He wrote, Page 222:

"The wickedness and the stupidity of the experimenters amazed us. The symptoms of aconitine nitrate poisoning have been known from time immemorial. This poison is sometimes employed by certain savage tribes to poison their war arrows. But one has never heard of them writing observations in a pretentious style, on the anticipated result of their experiments—observations which are completely inadequate and puerile—nor that they would have them signed by a 'Doz,' that is to say, a professor."

We now submit Document F-278(a) as Exhibit Number RF-388. It involves Keitel. It is a letter signed: "By order of the High Command of the Wehrmacht, Dr. Lehmann." It is dated 17 February 1942 and is addressed to the Minister for Foreign Affairs, and it implicates him. It concerns the regime in the internment camps:

"Delinquents brought to Germany in application of the decree of the Führer are to have no communication of any kind with the outside world. They must, therefore, neither write themselves, nor receive letters, packages, or visits. The letters, packages, and visits are to be refused with the remark that all communication with the outside world is forbidden."

The High Command gives its point of view in a letter of 31 January 1942, according to which there can be no question of Belgian lawyers being permitted for Belgian prisoners.

We now submit Document 682-PS, which becomes Exhibit Number RF-389, Page 134 of the second document book. This document implicates the German Government and the Reich Cabinet. It is a record of a conversation between Dr. Goebbels and Thierack, Minister of Justice, in Berlin, on 14 September 1942, from 1300 hours to 1415 hours.

"With regard to the destruction of asocial life, Dr. Goebbels is of the opinion that the following should be exterminated: All Jews and Gypsies, Poles having to serve 3-4 years of penal servitude, and Czechs and Germans sentenced to death, to penal servitude for life, or to security custody (Sicherungsverwahrung). The idea of exterminating them by work is the best. . . ."

We stress this last phrase which shows, even in the heart of the German Government itself, the will to "exterminate by work."

The last document that we shall submit with regard to the concentration camps is Document F-662, which becomes Exhibit Number RF-390, Pages 77 and 78, second document book. This document is the testimony of M. Poutiers, living in Paris, Place de Breteuil, who points out that the internees in the detachments of Mauthausen-Ebens worked under the direct control of civilians, the SS dealing only with the guarding of the prisoners. This witness, who was in numerous work units, states that all were ordered and controlled by civilians and only supervised by the SS and that the inhabitants of the country, as the internees went to and from their work and while at work, could therefore observe their misery; which confirms the testimony which has already been given before the Tribunal during these last few days.

We shall summarize the increasing advance of the German criminal policy in the West: At the beginning of the occupation, violation of Article 50 of the Hague Convention; execution of hostages, but creation of a pseudo "law of hostages" to legalize these executions in the eyes of the occupied countries.

In the years that follow, contempt for the rights of the human individual increases, until it becomes complete in the last months of the occupation. By that time arbitrary imprisonment, parodies of trials, or executions without trial have become daily practice.

The sentences, the Tribunal will remember, were not put into effect in cases of acquittal or pardon; people acquitted by German tribunals, who should have been set at liberty, were deported and died in concentration camps.

At the same time there developed and grew in strength the organization of Frenchmen who remained on the soil of France and refused to let their country die. At this stage German terrorism was intensified against them ever increasingly. What follows is the description of the terrorist repression carried out by the Germans against the patriots of the west of Europe, against what was called the "Resistance," without giving this word any other meaning than its generic sense.

From the time Germany understood that her policy of collaboration was doomed to defeat, that her policy of hostages only exasperated the fury of the people whom she was trying to subdue, instead of modifying her policy with regard to the citizens of the occupied countries, she reinforced the terror which already reigned there and tried to justify it by saying it was an anti-Communist campaign.

The Tribunal will recall Keitel's order and will understand what was thought of this pretext. All the French, all the citizens of Europe without distinction, without any distinction of party, profession, religion, or race, were involved in the resistance against

Germany and their heroes were mingled in the graves and in the collective charnel houses into which the Germans threw them after their extermination.

But this confusion was voluntary; it was calculated; it justified to a certain degree the arbitrary measures of repression of which we already had evidence in Document F-278, which we submit under Number RF-391. It is dated 12 January 1943, and is signed "Von Falkenhausen."

> "Persons who are found, without valid authorization, in possession of explosives and military firearms, pistols of all kinds, sub-machine guns, rifles, *et cetera,* with ammunition, are liable in future to be shot immediately without trial."

This order and others analogous to it continued to be executed even after the allied landing in the west of Europe. These orders were even carried out against organized forces in Belgium as well as in France, although the Germans themselves considered these forces as troops to a certain extent. This can be verified by reference to Document F-673, submitted under Exhibit Number RF-392, entitled "Terrorist action against patriots."

THE PRESIDENT: Perhaps this would be a convenient time to break off.

[A recess was taken.]

THE PRESIDENT: Yes, M. Dubost.

M. DUBOST: The document I have just submitted under Exhibit Number RF-392 is a memorandum to the Wiesbaden Commission. We read the following:

> "The action of the German troops, even if we admit the truth of the facts presented by the French, is taking place in the form of combat by far exceeding in scope any purely police action against isolated outlaws. On the enemy side we have organizations which absolutely refuse to accept the sovereignty of the French Government of Vichy and which from the point of view of numbers as well as of armament and command should almost be designated as troops. It has been reiterated that these revolutionary units consider themselves as being a part of the forces fighting against Germany.
>
> "General Eisenhower has described the terrorists who are fighting in France as troops under his command. It is against such troops"—on the original is written in red pencil "unfortunately not only"—"that repressive measures are directed."

This document shows us that when in action the French Forces of the Interior, as well as all French forces in the western occupied countries, were considered as troops by the German Army.

THE PRESIDENT: I see that it may be useful for the record. It is in the document book on the extermination of innocent populations, on Page 167.

M. DUBOST: I thank you, Mr. President. Are then these patriots, who were consequently considered by the German Army as constituting regular troops, treated as soldiers? No.

The order of Falkenhausen is proof thereof. They were either to be killed on the spot—and, after all, that is the fate of a combatant—or else delivered to the Sipo, to the SD, and tortured to death by these organisms, who dispensed with any legal formalities, as is shown by Document 835-PS, which has already been submitted under Number USA-527, and also by Document F-673, Page 6 in your document book, which we submit under Exhibit Number RF-392.

Document Number F-673 is a considerable bundle of papers which comes from the archives of the German Commission at Wiesbaden, and we are submitting it in its entirety under Exhibit Number RF-392. Whenever we refer to Document F-673, it will be one of the documents in this big German book.

> "Letter from the Führer's headquarters, 18 August 1944, 30 copies; copy 26; top secret.
>
> "Subject: Combatting terrorists and saboteurs in occupied territories.... 2. Jurisdiction over non-German civilians in occupied territories.
>
> "1) Enclosed herewith"—says the writer of this letter—"we are transmitting a copy of the order of the Führer of 30 July 1944...."

This order of the Führer will be found on Page 9 of your document book. Paragraph 3.

> "I therefore order the troops and every individual member of the Wehrmacht, the SS, and the police to shoot immediately on the spot terrorists and saboteurs who are caught in the act....
>
> "2) Whoever is captured later is to be transferred to the nearest local office of the Security Police and of the SD.
>
> "3) Sympathizers, particularly women, who do not take an actual part in hostilities, are to be assigned to work."

We know what that means. We know the regime of labor in concentration camps. But I shall proceed with reading the text of the covering letter of this order of the Führer, Paragraph 4. This paragraph is a commentary on the order itself:

"Present legal proceedings relating to any act of terror or sabotage or any other crime committed by non-German civilians in the occupied territories, which endanger the security or the readiness for battle of the occupying power, are to be suspended. Indictments are to be withdrawn. The carrying out of sentences is not to be imposed. The accused and the records are to be turned over to the nearest local office of the Security Police and SD."

This order, to be transmitted to all commanding officers, as indicated on Page 7, is accompanied by one last comment, Page 8, the penultimate paragraph:

"Non-German civilians in the occupied territories who endanger the security or readiness for battle of the occupying power in a manner other than through acts of terrorism and sabotage are to be turned over to the SD."

This order is signed by Keitel.

By this comment, Keitel has associated himself in spirit with the order of his Führer. He has brought about the execution of numerous individuals, for an order to kill without control any one suspected of being a terrorist affects not only the terrorists but the innocent and affects the innocent more than the terrorists. Moreover, Keitel's comment exceeds even Hitler's own orders. Keitel applied Hitler's stipulation—on Page 9 of your document book—to a hypothetical case which had not been foreseen, to wit:

"Acts committed by non-German civilians in occupied territories which endanger the security or readiness for battle of the occupying power."

This is on the general's own initiative. It is a political act which has nothing to do with the conduct of war. It is a political act which compromises and involves him. It makes him participate in the development and extension of the Hitlerian policy; for it is the interpretation of an order from Hitler, within the spirit of the order perhaps, but beyond its scope.

Instructions were given to the Sipo and the SD to execute without judgment. These instructions were carried out. Document F-574 on Page 10 of your document book, submitted as Exhibit Number RF-393, is the testimony of a certain Goldberg, an adjutant to the Sicherheitspolizei in Chalon-sur-Saône before the liberation of that city. He was captured by the patriots and interrogated by the divisional commissioner, who was head of the regional judicial police officials at Dijon. The Defense will certainly not accuse us of having had him examined by a subordinate police officer. It was the chief himself of the judicial police officials for the Dijon region who interrogated this witness. The witness declared, Page 12:

"At the end of May 1944, without my having seen any written order on this subject, the Sicherheitspolizei of Chalon were given the right to pronounce capital punishment and to have the sentence executed without those concerned having appeared before a tribunal and without the case having been submitted for approval to the commander at Dijon. The chief of the SD in Chalon, that is Krüger, had all necessary authority to make such decisions. There was no opposition, so far as I know, on the part of the SD of Dijon. I therefore conclude that this procedure was regular and was the consequence of instructions which were not officially communicated to me but which emanated from higher authorities."

Execution was carried out by members of the SD. Their names are given by the witness, but they are not of particular interest to this Tribunal, which is only concerned with the punishment of the principal criminals—those who gave the orders and from whom the orders emanated.

How were these orders applied in the various countries of the West? In Holland, according to the testimony found in the report given by the Dutch Government, Page 15, I quote:

"About 3 days after the attempt against Rauter—about 10 March 1945—I witnessed the execution of several Dutch patriots by the German 'green' police while I was working in the fields in Waltrop."

This Dutch document is classified in the French file as Number F-224 (Document F-224 (a), Exhibit RF-277) and has been submitted to you in its entirety, but the specific passage to which I refer has not been read. The witness continues, on Page 16 of your document book:

"I spoke to an Oberwachtmeister of the 'green' police whose name is unknown to me, and he told me that this execution was in revenge for the attempt against Rauter. He told me also that hundreds of Dutch 'terrorists' had been executed for similar reasons."

Another witness stated:

"About 6 o'clock in the evening"—this is the German who gave the orders to execute the Dutch patriots—"when I went to my office, I received the order to have 40 prisoners shot."

On Page 19, the investigators, who are Canadian officers, state the conditions under which the corpses were discovered. I do not believe that the Tribunal will want me to read this passage.

On Page 21 the Tribunal will find the report of Munt, completing and rectifying his report of 4 June on the execution of Dutchmen after the attempt against Rauter.

The execution was carried out on the order of Kolitz; 198 prisoners were transported. Munt denies having sanctioned the execution of these Dutch patriots, but says that it was nevertheless impossible for him to prevent it, in view of the orders from higher sources which he had received.

On Page 22, next to the last paragraph, the same Munt states:

"After an attack against two members of the Wehrmacht on two consecutive days, in which both were wounded and their rifles taken away, my chief insisted that 15 Dutch citizens be shot; 12 were shot."

An important document is to be found on Page 30 in your document book. It is included in F-224, which comprises the documents relative to inquiries made by the Dutch Government. This is a decree concerning the proclamation of summary police justice for the occupied Netherlands territory. It is signed by the Defendant Seyss-Inquart. Therefore one has to go to him when seeking for the chief responsibility for these summary executions of patriots in Holland.

From this decree we take Paragraph 1:

". . . I proclaim, for the occupied Netherlands territory in its entirety, summary police justice which shall enter into force immediately.

"Simultaneously, I order that everyone abstain from any kind of agitation which might disturb public order and the security of public life."

I skip a paragraph.

"The senior SS and Police Leader will take every step deemed necessary by him for the maintenance or restoration of public order or the security of public life.

"In the execution of his task the senior SS and Police Leader may deviate from the law in force."

Summary police justice! These words do not deceive us. This is purely and simply a matter of murder, in that the police is authorized in executing its functions to deviate from the law in force. This sentence, which Seyss-Inquart signed and which protected his subordinates who assassinated Dutch patriots as far as German law was concerned, is in itself the condemnation of Seyss-Inquart.

In execution of this decree the Tribunal will see that on 2 May —and this is Page 32 of your document book—a summary police tribunal pronounced the death sentence against ten Dutch patriots. On Page 34, another summary police tribunal pronounced the death sentence on ten other Dutch patriots. All of them were executed. On the next page, still in application of the same decree, a summary

police court pronounced the death sentence on a patriot, and he was executed.

This document, Document F-224(a), Exhibit RF-277, comprises a very long list of similar texts which seems to me superfluous to cite. The Tribunal may refer to the last only, which is especially interesting. We will consider it for a moment; it is on Page 46 of your document book. This is the report of the Identification and Investigation Service of the Netherlands, according to which, while it was not possible to make known at that time the number of Dutch citizens who were shot by the military units of the occupying power, we can state now that a total of more than 4,000 of them were executed. The details of the executions, with the places where the corpses were discovered, follow.

This constitutes only a very fragmentary aspect of the sufferings and the sacrifices in human life endured by Holland. That needs to be stated because it is the consequence of the criminal orders of the Defendant Seyss-Inquart.

In the case of Belgium, the basic document is the French Document F-685, submitted as Exhibit Number RF-394; and you will find it on Page 48 of your document book. It is a report drawn up by the Belgian War Crimes Commission, which deals only with the crimes committed by the German troops at the time of the liberation of Belgian territory, September 1944. These crimes were all committed against Belgian patriots who were fighting against the German Army. It is not merely a question of executions but of ill-treatment and torture as well. Page 50:

> "At Graide a camp of the secret army was attacked. 15 corpses were discovered to have been frightfully mutilated. The Germans had used bullets with sawn off tips. Some of the bodies had been pierced with bayonets. Two of the prisoners had been beaten with cudgels before being finished off with a pistol shot."

The prisoners were soldiers, taken with weapons in hand and in battle, belonging to those units which officially, according to the testimony in documents previously cited to you, were considered by the German General Staff from that time on as being combatants.

> "At Fôret, on 6 September, several hundred men of the resistance were billeted in the Château de Forêt. The Germans, having been warned of their going into action, decided to carry out a repressive operation. A certain number of unarmed members of the resistance tried to flee. Some were killed; others succeeded in getting back to the castle, not having been able to break through the cordon of German troops; others were finally made prisoner.

"The Germans advanced with the resistance prisoners in front of them. After 2 hours the fighting stopped for lack of ammunition. The Germans promised to spare the lives of those who surrendered. Some of the prisoners were loaded on a lorry; others, in spite of the promise given, were massacred after having been tortured. The castle and the corpses were sprinkled with gasoline and set on fire: 20 men perished in this massacre; 15 others had been killed during combat."

The examples are numerous. This testimony to heroic Belgium was necessary. It was necessary that we should be reminded of what we owe her, of what we owe to her combatants of the secret army, and how great their sacrifice has been.

With regard to Luxembourg, we have a document from the Ministry of Justice of the Grand Duchy of Luxembourg, which is Document Number UK-77, already submitted under Exhibit Number RF-322, which the Tribunal will find on Page 53 of the document book.

The Tribunal will note that a special summary tribunal, similar to those which functioned in Holland, was set up in Luxembourg; that it functioned in that country and pronounced a certain number of death sentences, 21—all of them equally arbitrary, in view of the arbitrary character of the tribunal which pronounced them.

The document contains the official indictment of the Grand Duchy of Luxembourg against all the members of the Reich Cabinet, specifically against the Ministers of the Interior, of Justice, and the Party Chancellery, and against the leaders of the SS and Police, and especially against the Reich Commissioner for the Preservation of German Nationality.

In the case of Norway, Document UK-79 already submitted under Exhibit Number RF-323, Page 55 of the document book, shows that tribunals similar to the special tribunal set up in Holland by the police were in operation in Norway. They were called the SS tribunals. More than 150 Norwegians were condemned to death. Besides, the Tribunal will remember the testimony of M. Cappelen, who gave an account of what his country and his compatriots had endured.

Regarding Denmark, on Page 57 of your document book, Document Number F-666, already submitted as Exhibit Number RF-338, the Tribunal will note that according to this official report of the Danish Government police courts-martial similar to those which functioned in Luxembourg, in Norway, and in Holland, functioned against Danish patriots. These summary police tribunals, composed of SS or police, in reality disguised the arbitrary measures of the police and of the SS; measures not only tolerated, but willed by

the government, as can be shown by documents which we placed before you at the beginning of this statement.

We, therefore, can assert that the victims of those tribunals were murdered without having been able to justify or defend themselves.

In the case of France the question should be carefully examined. The Tribunal knows that from the moment of the landing, answering the call of the General Staff, the French Secret Army rose and began battle. Undoubtedly, in spite of the warning given by the Allied General Staff, these combatants, who a few weeks later were officially recognized by the German side as being combatants, at the beginning found themselves in a rather irregular situation. We do not contest that in many instances they were *francs-tireurs;* we admit that they could be condemned to death; but we protest because they were not condemned to death, but were murdered after having been brutally tortured. We are going to give you proof thereof.

Document F-577, which is submitted under Exhibit Number RF-395, to be found on Page 62 of your document book, states that on 17 August, the day before the liberation of Rodez, the Germans shot 30 patriots with a submachine gun. Then, to finish them off, they tore large stones from the wall of the trench in which they were and hurled them on the bodies with some earth. The chests and the skulls were crushed.

Document F-580, Page 79 of your document book, which is submitted to you as Exhibit Number RF-396, shows that five oblates from the order of Marie—as far as I know these lay brothers were not communists—were murdered after having been tortured, because they belonged to a group of the Secret Army. In all, 36 corpses were discovered after this execution, a "punitive measure" carried out by the German Army.

On Page 85 the Tribunal will read the result of the inquiry and will see under what conditions these 5 monks were killed after having been tortured and under what conditions the Staff of a resistance group, which had been betrayed, was arrested and deported, together with a few members of the same religious order.

Evidence is produced that men from the Maquis in the forest of Achères were arrested and tortured after having been incarcerated in the prison of Fontainebleau. We even know the name of the German member of the Gestapo who tortured these patriots. His name is unimportant—this German, Korf, carried out orders that were given by Keitel and by the other defendants whose names I mentioned just now.

Document F-584, submitted under Exhibit Number RF-397, Pages 87 and 88, shows the Tribunal that when the bodies were found it was discovered that 10 of them had been blindfolded

before being shot, that 8 had had their arms broken by injury or torture, and many had wounds in the lower parts of their legs as the result of being very tightly bound. That is the report of the commissioner of the police at Pau, drawn up on 28 August 1944, on the day following the liberation of Pau.

We now submit Document F-585 as Exhibit Number RF-398. The Tribunal will find it on Page 96 of the document book. I will give a summary:

The day following the liberation, 38 corpses were found in two graves near Signes in the mountain of Var. One of the leaders of the Resistance of the Côte d'Azur, Valmy, and with him two parachutists, Pageot and Manuel, were identified. Of this massacre a witness was found—his name is Tuirot—whose statements are copied on Pages 105, 106, and 107 of your document book.

Tuirot was tortured, with his comrades, without having been given the opportunity of help from a counsel or a chaplain. The 38 men were taken to the woods. They appeared before a parody of a tribunal composed of SS. They were condemned to death and the sentence was executed.

We place now before the Tribunal Document F-586 as Exhibit Number RF-399. The Tribunal will find it on Page 110 of the document book. It deals with the execution at Saint Nazaire and Royans of 37 patriots, members of the French Secret Army, who were tortured before being executed. Here is the statement of facts by an eyewitness:

> "I came through the ruins and arrived at the Château of Madame Laurent, a widow. There a frightful spectacle confronted me. The castle, which the Gestapo had used as a place of torture for the young Maquis, had been set on fire. In a cellar there was the calcinated skeleton which prior to death had had its forearms and a foot pulled off and which had perhaps been burned while still alive."

But I proceed. Wherever the Gestapo was in operation there were the same methods.

Now we place before the Tribunal Document F-699, which relates to the murder at Grenoble of 48 members of the Secret Army all of whom were tortured. This document is submitted as Exhibit Number RF-400.

I now come to Document F-587, which we submit as Exhibit Number RF-401. The Tribunal will find this document on Page 115 of the document book. It concerns the execution by hanging of 12 patriots at Nîmes, 2 of whom were dragged from the hospital where they were under care for wounds received in battle. These young men had all been captured in combat at St. Hippolyte-du-Fort. The

bodies of these wretched men had been defiled. On their chests was a placard saying: "Thus are French terrorists punished." When the French authorities wished to perform funeral rites for these unfortunate men, the bodies had disappeared. The German Army had removed them. They have never been discovered. It is a fact that two of these victims were dragged from the hospital. Document F-587 contains particularly the report of a witness who saw the men taken from the hospital ward where they were being cared for.

I now submit Document F-561 as Exhibit Number RF-402—Page 118 of your book. It deals with the execution at Lyons of 109 patriots who were shot under inhuman conditions. They were killed at the end of a day's toil. On 14 August Allied planes had bombed the Bron airfield. From 16 to 22 August the German authorities had employed requisitioned civilians and prisoners from the Fort of Montluc at Lyons to fill the bomb craters. At the end of the day, when the work was finished, the civilian laborers went away; but the prisoners were shot on the spot after having been more or less ill-treated. Their bodies were stacked in half-filled craters.

Document F-591, which we submit as Exhibit Number RF-403, Page 119 of the document book, is a report of atrocities committed by the German Army on 30 August 1944 at Tavaux (Aisne):

> "During the afternoon of that day soldiers of the Adolf Hitler Division arrived at Tavaux. They appeared at the home of M. Maujean, who was leader of the resistance. His wife opened the door. Without explanation they shot at her, wounding her in the thigh and also in the lower jaw. They dragged her to the kitchen and broke one arm and one leg in the presence of her children, aged 9, 8, 7, and 6 years, and 8 months. They poured inflammable liquid over Madame Maujean and set fire to her in front of the children. The elder son held his little sister, 8 months old, in his arms. Then they told the children that they would shoot them if they did not tell them where their father was. The children said nothing, although they knew the whereabouts of their father. Before leaving they took the children to the cellar and locked them in. Then the Germans poured gasoline on the house and set it on fire. The fire was put out and the children were saved. These facts were told to M. Maujean by his eldest child. No other person was a witness to these facts because the inhabitants, frightened by the first houses set on fire, had sought refuge either in trenches or in the neighboring fields and woods.
>
> "During the same evening 21 persons were killed at Tavaux and 83 houses were set on fire."

Next comes a report by the gendarme, Carlier, on the events of the following day.

Document F-589, which we submit as Exhibit Number RF-404, shows the number of murders of patriots committed in the region of Lyons. It is dated 29 September 1944: 713 victims were found in 8 departments; 217 only have been identified. This figure is approximate; it is definitely less than the number of people who are missing in the 8 departments of Ain, Ardèche, Drôme, Isère, Loire, Rhône, Savoie, and Haute Savoie.

A German general, General Von Brodowski, confessed in his diary, which fell into our hands, that he had caused the murder of numerous patriots, and that the Wehrmacht, Police, and SS operated together and were responsible for these murders. These troops murdered wounded men in the hospital camps of the French forces of the interior. This document, which is under Number F-257, is submitted as Exhibit Number RF-405 and is to be found on Page 123 of your document book. In the last four paragraphs the police and the army combine:

> "I have been charged with restoring the authority of the Army of Occupation in the Department of Cantal and neighboring regions."

Dated 6 June 1944:

> "General Jesser had been charged with the tactical direction of the undertaking. All troops available for the operation will be subordinate to him, as well as all other forces.
>
> "The Commander of the Sipo and of the SD, Hauptsturmführer Geissler, remains at my immediate disposal; he will submit to me proposals for a possible utilization"—and so forth.
>
> "The staff and two battalions of the SS Panzer Division 'Das Reich' are, in addition, to remain available for the operation in Cantal."

General Brodowski turned over to the SD (which is equivalent to execution without trial) the French prisoners who were wounded on 15 June 1944. The Prefect of Le Puy asked the liaison staff whether the men wounded in the battle of Montmouchet and taken into safety by the Red Cross of Puy could be delivered to Puy as prisoners of war. This German general, executing the orders of the German High Command—particularly of Keitel and Jodl—said that those wounded men were to be treated as *francs-tireurs* and to be delivered to the SD or to the Abwehr. Those wounded men were turned over to the German Police and tortured and killed without trial.

According to the statement of Goldberg, which I have submitted, any man turned over to the SD was executed. Events took place on 21 June 1944 as indicated by Goldberg, "Twelve suspects were arrested and turned over to the SD."

Under the date of 16 August 1944, Page 133, this general of the German Army had 40 men murdered after the battles at Bourg-Lastic and at Cosnat:

> "In the course of operation Jesser, on 15 July 1944 in the Bourg-Lastic region, 23 persons were executed. Martial law. Attack on Cosnat; 3 kilometers east of St. Hilaire, during the night of 17 July, 40 terrorists were shot."

On Page 136, this German general admits in his own diary that our comrades were fighting as soldiers and not as assassins. This general of the German Army acknowledges that the French Forces of the Interior took prisoners:

> "Southeast of d'Argenton, 30 kilometers southwest of Châteauroux, the 'Jako' discovered a center of terrorists; 16 German soldiers were liberated; arms and ammunition were captured; 7 terrorists were killed, 2 of them being captains. One German soldier was seriously wounded."

Another similar incident is also related further on:

> "Discovery of two camps of terrorists in the region of d'Argenton. Nine enemies were killed, two of whom were officers; 16 German soldiers were liberated."

At the bottom of the page he states, "We liberated two SS men."

These French soldiers were entitled to the respect of their adversaries. They conducted themselves as soldiers; they were assassinated.

THE PRESIDENT: We will adjourn now until two o'clock.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: May it please the Court, I desire to announce that the Defendants Kaltenbrunner and Seyss-Inquart will be absent from this afternoon's session on account of illness.

M. DUBOST: We had arrived, gentlemen, at the presentation of the terrorist policy carried out by the German Army, Police, and SS, indistinguishably united in their evil task against the French patriots. Not only the militant patriots were to be the victims of this terrorist policy. There were threats of reprisals against their relatives, and these threats were carried into effect.

We submit Document 719-PS as Exhibit Number RF-406, which you will find on Page 147 of the document book. It is the copy of a teletype from the German Embassy in Paris to the Ministry of Foreign Affairs in Berlin. The German Ambassador reports a conversation which the Vichy unit had had with Laval.

The author of this message, who is probably Abetz, explains that Bousquet, who was with Laval at the time of this conversation, stated that he was completely ignorant of the recent flight of Giraud's brother:

> "Madame Giraud, three of her daughters, her mother, another brother and the daughter-in-law of Giraud, were in Vals-les-Bains. I replied that such measures were insufficient and that he must not be surprised if the German police some day reverted to sterner measures, in view of the obvious incompetence of the French police in numerous cases."

The threat was put into execution. We have already stated that the family of General Giraud were deported.

We submit Document F-717 under Exhibit Number RF-407, Page 149 of your document book: "Paris, 1030 hours, 101, Official Government Telegram, Paris, to the French Delegation of the IMT Nuremberg."

From this telegram it is evident that 17 persons, members of the family of General Giraud, were deported to Germany. Madame Granger, daughter of General Giraud, aged 32, was arrested without cause in Tunis in April 1943, as well as her four children, aged 2 to 11 years, with their young nurse, and her brother-in-law, M. Granger. The family of General Giraud was also arrested, on 9 October 1943. They were first deported to Berlin, then to Thuringia.

May I ask the forbearance of the Tribunal; the telegraphic style does not lend itself to interpretation, "Sent first to Berlin and then to Thuringia; women and children of M. Granger to Dachau." (I suppose that we must understand this to mean the wife of M. Granger and the nurse who accompanied her.)

THE PRESIDENT: M. Dubost, what is the document?

M. DUBOST: This is a French official telegram. You have the original before you, Mr. President, "—101—Official State Telegram Paris," typed on the text of the telegram itself.

THE PRESIDENT: Can we receive a telegram from anybody addressed to the Tribunal?

M. DUBOST: Mr. President, it is not addressed to the Tribunal; it is addressed to the French Delegation. It is an official telegram from the French Government in Paris, "Official State Paris," and it was transmitted as an official telegram.

THE PRESIDENT: What does "IMT Paris" mean?

M. DUBOST: The International Military Tribunal in Paris. It is our office in Paris at Place Vendôme—it is an office of the French Ministry of Justice. The telegram begins, "General Giraud." It is a telegraphic declaration. The letters "OFF" at the beginning of the telegram mean "Official." Please forgive me for insisting that the three letters "OFF" at the beginning of the telegram mean "Government, official" from Paris. No French telegraph office could transmit such a telegram if it did not come from an official authority. This official authority is the French Delegation of the IMT in Paris, which received the statement made by General Giraud and transmitted it to us: "By General Giraud, French Delegation of the IMT."

THE PRESIDENT: Very well, the Tribunal will receive the document under Article 21 of the Charter.

M. DUBOST: I am grateful to the Tribunal. I read further on, at Page 150:

> "On the other hand, the death of Madame Granger on 24 September 1943 is undoubtedly due to lack of care and medicine, in spite of her reiterated requests for both. After an autopsy of her body, which took place in the presence of a French doctor, specially summoned from Paris after her death, authorization was given to this doctor, Dr. Claque to bring the four children back to France, and then to Spain, where they would be handed over to their father. This was refused by the Gestapo in Paris, and the children were sent back to Germany as hostages, where their grandmother found them only 6 months later."

The last four lines:

> "The health of Madame Giraud, her daughter Marie Theresa, and two of her grandchildren has been gravely impaired by the physical, and particularly by the moral, hardships of their deportation."

As a reprisal for the escape of General Giraud, 17 persons were arrested, all innocent of his escape.

I have frequently shown that in their determination to impose their reign of terror the Germans resorted to means which revolt the conscience of decent people. Of these means one of the most repugnant is the call for informers.

Document F-278(b), Page 152, which we submit as Exhibit Number RF-408, is a reproduction of an ordinance of 20 December 1941, which is so obviously contrary to international law that the Foreign Ministry of the Reich itself took cognizance of it. The ordinance of 27 December 1941 prescribes the following:

> "Whosoever may have knowledge that arms are in the possession or keeping of an unauthorized person or persons is obliged to declare that at the nearest police headquarters."

The Ministry of Foreign Affairs in Berlin, on 29 June 1942, objected to the draft of a reply to the French note, which we do not have here but which must have been a protest against this ordinance of 27 December 1941. The Tribunal knows that in the military operations which accompanied the liberation of our land many archives disappeared, and therefore we cannot make known to the Tribunal the protest to which the note of 29 June 1942, from the German Foreign Ministry refers.

Paragraph 2 summarizes the arguments of the French protest. The French evidently had written: If German territory were occupied by the French, we would certainly consider as a man without honor any German who denounced to the occupying power an infraction of their laws, and this point of view was taken up and adopted by the German Foreign Ministry. The note continues:

> "As a result of consideration of this matter, the Foreign Office considers it questionable whether punishment should be inflicted on whomsoever fails to denounce a person possessing or known to possess arms. Such a prescription of penalty under this general form is, in the opinion of the Foreign Office, the more impracticable in that it would offer the French the possibility of calling attention to the fact that the German Army is demanding of them acts which would be considered criminal if committed by German citizens."

This German note, I repeat, comes from the Reich Ministry of Foreign Affairs and is signed "Strack." There is no more severe condemnation of the German Army than that expressed by the Reich Ministry of Foreign Affairs itself. The reply of the German Army will be found by the Tribunal on Page 155, "Berlin. 8 December 1942. High Command of the Wehrmacht." The High Command of the Wehrmacht concludes:

"... since it does not seem desirable to enter into discussion with the French Government on the questions of law evoked by them, we too consider it appropriate not to reply to the French note."

This note begins, moreover, by asserting that any relaxing of the orders given would be considered as a sign of weakness in France and in Belgium.

These are not the signs of weakness that the German Army gave in our occupied countries of the West. The weakness manifested itself in terror; it brought terror to reign throughout our countries, and that in order to permit the development of the policy of extermination of the vanquished nations which, in the minds of all Nazi leaders, remained the principal purpose, if not the sole purpose, of this war.

This terrorist policy, of which the Tribunal has just seen examples in connection with the repression of attacks by our French Forces of the Interior on the enemy, developed without any military necessity for it in all the countries of the West. The devastations committed by the enemy are extremely numerous. We shall limit our presentation to the destruction of Rotterdam at a time when the city had already capitulated and when only the question of the form of capitulation had to be settled; and secondly, to a description of the inundations which the German Army caused, without any military necessity of any sort, in 1945 on the eve of its destruction when that Army already knew that it had lost the game.

We have chosen the example of Rotterdam because it is the first act of terrorism of the German Army in the West. We have taken the inundations because, without her dykes, without fresh water, Holland ceases to exist. The day her dykes are destroyed, Holland disappears. One sees here the fulfillment of the enemy's aim of destruction, formulated long ago by Germany as already shown by the citation from Hitler with which I opened my speech, an aim which was pursued to the very last minute of Germany's existence as is proved by those unnecessary inundations.

We submit to the Tribunal Document F-719 as Exhibit Number RF-409, which comprises Dutch reports on the bombing of Rotterdam and the capitulation of the Dutch Army. On Pages 38 and 39 of the second document book are copies of the translations of documents exchanged between the commander of the German troops before Rotterdam and the colonel who was in command of the Dutch troops defending the city.

Captain Backer relates the incidents of that evening which ended with the burning of the city. At 1030 hours a German representative appeared with an ultimatum, unsigned and without

any indication of the sender, demanding that the Dutch capitulate before 1230 hours. This document was returned by the Dutch colonel, who asked to be told the name and the military rank of the officer who had called upon him to surrender.

At 1215 hours Captain Backer appeared before the German lines and was received by a German officer. At 1235 hours he had an interview with German officers in a dairy shop. A German general wrote his terms for capitulation on the letter of reply, which the representative of the Dutch General Staff had just brought to him.

At 1320 hours Captain Backer left the place, this dairy shop where the negotiations had taken place, with the terms to which a reply had to be given. Two German officers escorted him. These escorting officers were protected by the flight of German aircraft, and red rockets were fired by them at 1322 and 1325 hours. At 1330 hours the first bomb fell upon Rotterdam, which was to be completely set on fire. The entry of the German troops was to take place at 1850 hours, but it was put forward at 1820 hours. Later the Germans said to Captain Backer that the purpose of the red rockets was to prevent the bombing. However, there had been excellent wireless communication from the ground to the aircraft. Captain Backer expressed his surprise that this should have been done by means of rockets.

The work on the inundation of the "Wieringermeer" polder began on 9 and 10 April 1945. I quote a Dutch document. That day German soldiers appeared on the polder, gave orders, and placed a guard for the dyke.

> "On 17 April 1945 at 1215 hours the dyke was dynamited so that two parts of it were destroyed up to a height somewhat lower than the surface of the water of the Ijesselmeer....
>
> "As for the population, they were warned during the night of 16 to 17 April"—that is, at the time when the water was about to flood the polder—"In Wieringerwerf the news received by the mayor was passed from house to house that at noon the dyke would be destroyed. Altogether for this great polder, with an area of 20,000 hectares, not more than 8½ to 9 hours were granted for evacuation.... Telephone communications had been completely interrupted; and it was impossible to use automobiles, which meant that some individuals did not receive any warning until 8 o'clock in the morning....
>
> "The time given to the population was, therefore, too short for the evacuation....
>
> "The looting in the flooded polder has already been mentioned. During the morning of 17 April, on the day of the disaster,

groups of German soldiers begin to loot... These soldiers came from Wieringen... Moreover, they broke everything that they did not want to take..."

This polder by itself covers half of all the flooded lands in Northern Holland. The polder was flooded on 17 April, when defeat was already a fact as far as the German Army was concerned. The Dutch people are seeking to recover the land which they have lost. Their courage, industry and energy arouse our admiration, but it is an immense loss which the German Army inflicted upon those people on 17 April.

Terrorism and extermination are intimately interwoven in all countries in the West.

Document C-45, which we submit as Exhibit Number RF-410 and which is the first in the document book, is an order of 10 February 1944 showing that repression, in the minds of the leaders of the German Army, was to be carried out without consideration of any kind:

"Fire must be immediately returned. If, as a result, innocent people are struck, it is to be regretted but it is entirely the fault of the terrorists."

These lines were written over the signature of an officer of the general staff of the German Military Command in Belgium and Northern France. This officer was never denounced by his superiors as can be seen by the document.

Document F-665, submitted as Exhibit Number RF-411, Page 2 of your document book:

"The search of suspected villages requires experience. SD or GFP (Secret Field Police) personnel should be called upon. The real accomplices of the guerillas must be disclosed, and apprehended with all severity. Collective measures against the inhabitants of entire villages (this includes the burning of villages) are to be taken only in exceptional cases and may be ordered only by divisional commands or by chiefs of the SS and Police."

This document is dated 6 May 1944. It comes from the High Command of the Wehrmacht; and it, or at least the covering letter, is signed by Jodl.

This document involves not only the Army General Staff, but the Labor Service—that is to say, Sauckel—and the Todt Organization—that is to say, Speer. Indeed, in the next to the last paragraph we may read:

"The directive... is applicable to all branches of the Wehrmacht and to all organizations which exercise their activities

in occupied territories (the Reich Labor Service, the Todt Organization, *et cetera*."

These orders, aimed at the extermination of innocent civilian populations, were to be carried out vigorously but at the price of a constant collusion of the German Army, the SS, the SD, and the Sipo, which the people of all countries of the West place together in the same horror and in the same reprobation.

In the war diary of General Von Brodowski submitted this morning under Exhibit Number RF-405, an excerpt of which is to be found on Pages 3, 4, and 5 of the document book, it is stated that repressive operations were carried out:

"An action against terrorists was undertaken in the southwestern area of the Department of Dordogne near Lalinde, in which a company of Georgians of Field Police, and members of the SD took part . . ."

Dated 14 June 1944 is a statement on the destruction of Oradour-sur-Glane. I shall come back to the destruction of this village. "600 persons are said to have been killed," writes General Von Brodowski. It is underscored in the text.

"The whole male population of Oradour has been shot. Women and children took refuge in the church. The church caught fire. Explosives had been stored in the church. Even women and children perished."

We shall let you know the results of the French inquiry. The Tribunal will see to what degree General Von Brodowski lied when he described the annihilation of Oradour in these terms.

Concerning Tulle:

"On 8 July 1944 in the evening the barracks occupied by the 13th Company of the 95th Security Regiment were attacked by terrorists. The struggle was terminated by the arrival of the Panzer division, 'Das Reich.' 120 male inhabitants of Tulle were hanged, and 1,000 sent to the SD at Limoges for investigation."

THE PRESIDENT: M. Dubost, could we see the original of this document?

M. DUBOST: I showed it to you this morning, Mr. President, when I submitted it. It is rather a large document, if you will remember, Sir.

THE PRESIDENT: Yes. We would like to see it.

DR. ROBERT SERVATIUS (Counsel for Defendant Sauckel): I should like briefly to rectify an error now, before it is carried any further.

The French Prosecutor mentioned that certain people were put at the disposal of the Arbeitsdienst. I should like to point out that Arbeitsdienst is not to be confused with the Arbeitseinsatz. The Arbeitseinsatz was ultimately directed by Sauckel, whereas the Arbeitsdienst had nothing whatsoever to do with Sauckel. I should like to ask the Tribunal to take judicial notice of that distinction.

THE PRESIDENT: On account of a technical incident, the Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: The attorney for Sauckel, I think, was addressing the Tribunal.

DR. SERVATIUS: I had pointed out the difference between the Arbeitsdienst and the Arbeitseinsatz. The French prosecuting attorney apparently confused the Arbeitsdienst with the Arbeitseinsatz, for he said that the Arbeitsdienst was connected with Sauckel. That is not so. The Arbeitsdienst was an organization for pre-military training which existed before the war and in which young people had to render labor service. These young people were to some extent used for military purposes. The Arbeitseinsatz was concerned solely with the recruiting of labor to be used in factories or other places of work. It follows, therefore, that Sauckel cannot be associated with the accusations that were made in this connection. That is what I wanted to say.

M. DUBOST: The two German words were translated in an identical manner in French. A verification having been made, the remarks of the defense are correct and Sauckel is not involved, but only the Army.

THE PRESIDENT: Very well.

M. DUBOST: Here are a few examples of terrorist extermination in Holland, in Belgium, and in other occupied countries of the West.

In Holland, as one example out of a thousand, there were the massacres of Putten of 30 September 1944. They are included in Document Number F-224, which we submit as Exhibit Number RF-324 and which is to be found on Page 46 of the document book. On 30 September 1944 an attack was made at Putten by members of the Dutch resistance against a German automobile. The Germans concluded that the village was a refuge for partisans. They searched the houses and assembled the population in the church.

A wounded German officer had been taken prisoner by the Dutch resistance. The Germans declared that if this officer was released within 24 hours no reprisals would be made. The officer

was released, after having received medical care from the soldiers of the Dutch resistance who had captured him. However, in spite of the pledge given, reprisals were made upon the village of Putten, whose inhabitants were all innocent.

I now cite Paragraph 2 of the Dutch report:

"The population gathered in the church was informed that the men would be deported and the women had to leave the village because it would be destroyed.

"150 houses were burned down (the total amount of houses in the built-up area being about 2,000).

"Eight people, amongst whom a woman who tried to escape, were shot.

"The men were taken to the concentration camp at Amersfoort. Amongst them were many accidental passers-by who had been admitted into the closed village but who had been prevented from leaving the place.

"At Amersfoort about 50 people were selected; and during the transport, 12 jumped out of the train. 622 men were eventually deported to Auschwitz. The majority of those died after two months.

"From the 622 deported men, only 32 inhabitants of the village of Putten and 10 outsiders returned after the liberation."

In Belgium, we will cite only a few facts which are related in Document Number F-685, already submitted under Exhibit Number RF-394. This document is to be found on Page 48 in your document book. It describes the murder of a young man who had sought refuge in a dug-out. He was killed by the Germans who were looking for soldiers of the Belgian secret army.

At Hervé the Germans fired on a lorry filled with young men and killed two of them. The same day some civilians were killed by a tank.

On Page 49, the summary executions of members of the secret army are described. I quote:

"At Anhée, shots having been fired upon them, the Germans crossed the river Meuse. They set fire to 58 houses and killed 13 men. At Annevoie, on the 4th, the Germans came across the river and burned 58 houses."

Then follows a report on destruction, useless from the military point of view:

"... At Arendonck, on the 3rd, 80 men were killed, five houses were burned. At St. Hubert, on the 6th, three men killed and

four houses burned. At Hody, on the 6th, systematic destruction of the village, 40 houses destroyed, 16 people killed. At Marcourt, 10 people were shot, 35 houses were burned. At Neroeteren, on the 9th, 9 people were killed. At Oost-Ham, on the 10th, 5 persons were killed. At Balen-Neet, on the 11th, 10 persons were shot."

Page 50 contains the description of German extortions at the time of the temporary stabilization of the front.

"At Hechtel, the Germans having withdrawn before the British vanguard, the inhabitants hung out flags. But fresh German troops came to drive out the British vanguard and reprisals were taken; 31 people were shot; 80 houses were burned, and general looting took place. At Helchteren 34 houses were set on fire and 10 people were killed under similar circumstances. The same thing took place at Herenthout....

"The circumstances in which these men were executed are always identical. The Germans search the cellars, bring the men out, line them along the highway, and shoot them, after having given them the order to run. In the meantime, grenades are thrown into the cellars, wounding women and children."

Another example:

"At Lommel, the unexpected return of the German soldiers found the village with flags out. Seventeen persons who had sought refuge in a shelter were noticed by a German. He motioned to a tank which ran against the shelter crushing it and killing 12 people."

In the case of Norway we shall take an example from a document already submitted under Exhibit Number RF-323, Pages 51 and 52 of your book:

"... on 13 April 1940, two women 30 years of age were shot at Ringerike. On 15 April, four civilians, of whom two were boys of 15 and 16 years of age, were shot in Aadal. One of those murdered was shot through the head, and had also been bayonetted in the stomach. On 19 April four civilians, of whom two were women and one a little boy 3 years of age, were shot at Ringsaker.

"To avenge the death of the two German policemen, who were shot on the 26th of April 1942 at Televaag, the entire place was laid waste. More than 90 properties with 334 buildings were totally destroyed, causing damage to buildings and chattels (furniture and fishing outfits) amounting to a total of 4,200,000 Kroner."

In this document the Tribunal will find the continuation of the descriptions of German atrocities committed in Norway, without any necessity of a military character, simply to maintain the reign of terror.

In France massacres and destructions without military purpose were extremely numerous, and all of them were closely associated. We submit Document F-243 as Exhibit Number RF-412. The Tribunal will find this document on Pages 178 to 193 of the document book. It is a long list, drawn up by the French Office for Inquiry into War Crimes, of the towns that were destroyed and looted without any military necessity. The Tribunal will undoubtedly be enlightened by the reading of this document. We shall give but a few examples. In submitting this Document F-909 as Exhibit Number RF-413, we intend to relate the conditions under which a whole section of Marseilles was destroyed—Pages 56, 57, and 58, of your document book.

It is estimated that about 20,000 people were evacuated. This evacuation was ordered on 23 January. It was carried out without warning during the night of the 23rd to the 24th. I quote:

> "It is estimated that 20,000 persons were evacuated. From Frejus some of them were shipped by the Germans to the concentration camp of Compiègne....
>
> "The demolition operations began on 1 February at about 9 o'clock in the morning. They were carried out by troops of the German engineer corps....
>
> "The area destroyed is equivalent to 14 hectares: that is approximately 1,200 buildings."

Inquiry was made to find those who were responsible for this destruction. After the liberation of Marseilles the German consul in Marseilles, Von Spiegel, was interrogated. His testimony is in Document F-908, which we submit as Exhibit Number RF-414, Page 53 of your document book. Spiegel stated:

> "I know that a very short time after the evacuation of the old port the rumor spread that this measure had been brought about by financial interests, but I can assure you that in my opinion such a hypothesis is erroneous. The order came from the higher authorities of the Reich Government and had only two motives—the security of troops and the danger of epidemics."

We do not intend to give you a complete description of the attacks committed by the Germans but merely a few examples. We submit Document F-600 as Exhibit Number RF-415, Page 59:

> "At Ohis (Aisne) a civilian wanted to give an American soldier some cider to drink. The Germans returned. The American

soldier was taken prisoner, and M. Hennebert was also taken away by the Germans to a spot known as the 'Black Mountain' in the village of Origny en Thiérache where his body was later discovered partly hidden under a stack of wood. The body bore the trace of two bayonet wounds in the back."

I submit Document F-604 as Exhibit Number RF-416, Page 61 of the document book. A civilian was killed in his vineyard. Young men and girls walking along the road were killed. The motive was given as "presence of Maquis in the region." All these victims were completely innocent.

Document F-904, which I submit as Exhibit Number RF-417, Page 62 of your document book. At Culoz "... young boys were arrested because they had run away at the sight of the Germans...." They were reported. "... not one of them belonged to the resistance."

At St. Jean-de-Maurienne—Document F-906, submitted as Exhibit Number RF-418, Page 63 of your document book:

"On 23 August the gendarmes, Chavanne and Empereur, dressed in civilian clothes, and M. Albert Taravel were arrested by German soldiers without legitimate reason. The lieutenant who was in charge of the Kommandantur promised the officer of the gendarmes to release these three men. This German later surreptitiously ordered his men to shoot these prisoners.

"Mademoiselle Lucie Perraud, 21 years of age, who was a maid at the Café Dentroux, was raped by a German soldier of Russian origin, under threat of a pistol."

I will not mention any more of the atrocities described in this document.

I now come to the Vercors. This region was undeniably an important assembly center for French Forces of the Interior. Document F-611, which we submit as Exhibit Number RF-419, describes the atrocities committed against the innocent population of this region in reprisal for the presence of men of the Maquis. This document appears in your book on Page 69 and following. In Paragraph 3 is an enumeration of police operations in the Vercors area.

On 15 June, in the region of St. Donat: rape and looting. Execution at Portes-les-Valence on 8 July 1944 of 30 hostages taken from among the political prisoners interned at Fort Montluc at Lyons. Police raids carried out against the Maquis of the Vercors region from 21 July to 5 August 1944. Rape and looting in the region of Crest, Saillans, and Die. Bombing by aircraft of numerous villages in the Vercors area and in particular at La Chapelle and Vassieux-en-Vercors; summary execution of inhabitants of these places; looting. Execution, after summary judgment, of about a

hundred young men at St. Nazaire-en-Royans; deportation to Germany of 300 others from this region. Murder of 50 gravely wounded persons in the Grotto of La Luire. On 15 June 1944, attack by German troops at St. Donat. I quote, "The Maquis had evacuated the town several days earlier . . . 54 women or young girls from 13 to 50 years of age were raped by the maddened soldiers."

The Tribunal will forgive me if I avoid citing the atrocious details which follow. Bombing of the villages of Combovin, La Baume-Cornillanne, Ourches, *et cetera:*

> "The losses caused by these bombings among the civilian population are rather high, for in most cases the inhabitants, caught by surprise, had no time to seek shelter . . . 2 women were raped at Crest . . . 3 women were raped at Saillans. . . .
>
> "A young girl of twelve, who was wounded and pinned down between beams, awaited death for 6 long days unable either to sit down or sleep, and without receiving any food, and that under the eyes of the Germans who were occupying the village."—A medical certificate from Doctor Nicolaides, who examined the women who were raped in this region.

I will pass on.

I submit Document F-612 under Exhibit Number RF-420. To terrorize the inhabitants at Trebeurden in Brittany they hanged innocent people, and slashed the corpses to make the blood flow.

I proceed. Document F-912 is submitted as Exhibit Number RF-421, Page 82 of your book. It is the report of the massacre of 35 Jews at St. Amand-Montrond. These men were arrested and killed with pistol shots in the back by members of the Gestapo and of the German Army. They were innocent of any crime.

I submit Document F-913 as Exhibit Number RF-422—Page 96, I am quoting:

> "On 8 April 1944 German soldiers of the Gestapo arrested young André Bézillon, 18 years of age, dwelling at Oyonnax (Ain), whose brother was in the Maquis. The body of this young man was discovered on 11 April 1944 at Siège (Jura) frightfully mutilated. His nose and tongue had been cut off. There were traces of blows over his whole body and of slashes on his legs. Four other young men were also found at Siège at the same time as Bézillon. All of them had been mutilated in such a manner that they could not be identified. They bore no trace of bullets, which clearly indicates that they died from the consequences of ill-treatment."

I submit Document F-614 as Exhibit Number RF-423, at Page 98 of your document book. It describes the destruction of the village of Cerizay, (Deux-Sèvres). I quote:

"The fire did not cause any accident to persons, but the bodies of two persons killed by German convoys and those of two victims of the bombardment were burned."

This village was destroyed by artillery fire; 172 buildings were destroyed and 559 were damaged. We now submit another document, Document F-919 as Exhibit Number RF-424, Page 103. It concerns the murder of a young man of Tourc'h in Finistère. The murderers compelled the mother to prepare a meal for them. Having been fed, they had the victim disinterred. They searched and found that the body bore a card of identity bearing the same name and address as his mother, brothers, and sisters, who were present and in tears. One of the soldiers, finding no excuse to explain this crime, said dryly before going away: "He was not a terrorist! What a pity!" and the body was buried again. Document F-616 submitted as Exhibit Number RF-425, Page 104, concerns the report of the operations of the German Army in the region of Nice, about 20 July 1944. I quote:

"...having been attacked at Presles by several groups of Maquis in the region, by way of reprisal, this Mongolian detachment, as usual commanded by the SS, went to a farm where two French members of the resistance had been hidden. Being unable to take them prisoners, these soldiers then arrested the proprietors of that farm (the husband and wife), and after subjecting them to numerous atrocities, rape, *et cetera,* they shot them with submachine guns. Then they took the son of these victims, who was only 3 years of age; and, after having tortured him frightfully, they crucified him on the gate of the farmhouse."

We submit Document F-914 as Exhibit Number RF-426, Page 107 of your document book. This is a long recital of murders committed without any cause whatever by the German Army in Rue Tronchet at Lyons. I now read:

"Without preliminary warning, without any effort having been made to verify the exact character of the situation and, if necessary, to seize those responsible for the act, the soldiers opened fire. A certain number of civilians, men, women, and children fell. Others who were untouched or only slightly wounded fled in haste."

The Tribunal will find the official report that was drawn up on the occasion of these murders.

We submit without quoting, asking the Tribunal to take judicial notice of it only, the report relating to the crimes of the German Army committed in the region of Loches (Indre-et-Loire), Document F-617, submitted as Exhibit Number RF-427, Page 115 of your document book.

Document F-607, submitted as Exhibit Number RF-428, which is on Page 119 of your document book, describes the looting, rape, and burnings at Saillans during the months of July and of August 1944. I quote, "During their sojourn in the region"—referring to German soldiers—"rapes were committed against three women in that area." I pass on. Document F-608, Page 120 of your document book, submitted as Exhibit Number RF-429: A person was burned alive at Puisots by a punitive expedition. This person was innocent.

I submit Document F-610 as Exhibit Number RF-430, Page 122 of your document book. The whole region of Vassieux in the Vercors was devastated. This document, Number F-610, is a report by the Red Cross prepared prior to the liberation. I am quoting:

> "We found on a farm a wounded man, who had been hit by 8 bullets in the following circumstances. The Germans forced him to set fire to his own house, and tried to prevent him from escaping the flames by shooting at him with their pistols. In spite of his wounds, he was able miraculously to escape."

We submit Document F-618 as Exhibit Number RF-431, Page 124 of the document book. I quote, concerning people who were executed:

> "Before being shot these people were tortured. One of them, M. Francis Duperrier, had a broken arm and his face was completely mutilated. Another, M. Feroud-Plattet, had been completely disembowelled with a piece of sharp wood. His jaw bone was also crushed."

We submit Document 605 as Exhibit Number RF-432, Page 126. This document describes the burning of the hamlet of des Plaines near Moutiers, in Savoy: "Two women, Madame Romanet, a widow, 72 years old, and her daughter, age 41, were burned to death in a small room of their dwelling, where they had sought refuge. In the same place a man, M. Charvaz, who had had his thigh shattered by a bullet, was also found burned."

We now submit as Exhibit Number RF-433 the French Document F-298, Page 127 and following in your document book, which describes the destruction of Maillé in the department of Indre-et-Loire. That area was entirely destroyed on 25 August 1944, and a large number of its inhabitants were killed or seriously wounded. This destruction and these crimes had no terrorist action, no action by the French Forces of the Interior as a motive.

Document F-907 submitted as Exhibit Number RF-434—Page 132 and following in your document book—relates the incidents leading to German crimes at Montpezat-de-Quercy. This is a letter written to the French Delegation by the Bishop of Montauban, Monseigneur

Théas, on 11 December 1945. This document really explains Document F-673, already submitted as Exhibit Number RF-392, from which I will read. The first part consists of a letter by the French Armistice Commission, and has been taken from the archives of the Armistice Commission in Wiesbaden:

"On the night of 6 to 7 June last, in the course of an operation in the region of Montpezat-de-Quercy, German troops set fire to four farmhouses which formed the hamlet called 'Perches.' Three men, two women, and two children, 14 and 4 years old, were burned alive. Two women and a child of ten who disappeared probably suffered the same fate.

"On Saturday, 10 June, having been fired at by two recalcitrants at the village of Marsoulas, German troops killed these two men. Moreover, they massacred without any explanation all the other inhabitants of the village that they could lay their hands on.

"Thus 7 men, 6 women, and 14 children were killed, most of them still in their beds at the early hour when this happened.

"On 10 June, at about 1900 hours, five Luftwaffe aircraft attacked the town of Tarbes for half an hour with bombs and machine guns. Several buildings were destroyed, among them the Hôtel des Ponts et Chaussées, and the Academic Inspectorate. There were 7 dead and about 10 wounded who were hit by chance among the population of the town. On this occasion the general in command of the VS-659 at Tarbes immediately informed the Prefect of the Department of Basses-Pyrénées that the operation had been neither caused nor ordered by him.

"Following each of these events the Regional Prefect of Toulouse addressed to the general commanding the HVS-564 letters in which in dignified and measured terms he protested against the acts in question, through which innocent women and children were deliberately killed. He asserted very rightly that under no circumstances could children in the cradle be considered as accomplices of the terrorists. He requested finally that instructions be given to avoid the recurrence of such painful events.

"Replying on 19 June to the three letters of the Regional Prefect of Toulouse, the chief of staff of the general commanding the head liaison staff 564 announced the principles which determined the position taken by his chief, which justified the acts of reprisal quoted on the following grounds:

"The duty of the French population is not only to flee from terrorists but also to render their operations impossible, which

will avoid any reprisals being taken against innocent people. In the struggle against terrorism the German Army must and will employ all means at its disposal, even methods of combat new to Western Europe.

"The terror raids of the Anglo-Americans also massacre thousands and thousands of German children. There, too, innocent blood is being shed through the action of the enemy, whose support of terrorism is forcing the German soldier to use his arms in the South of France.

"I beg to ask you"—concluded General Bridoux, writing to the German Commission—"whether the French Government is to consider the arguments cited above as reflecting accurately the position taken by the German High Command, in view of the facts disclosed in the first part of the present letter."

We now submit Document E-190 as Exhibit Number RF-435, Page 141 of the document book, which describes the crimes committed at Ascq by a German unit which, in reprisal for the destruction of the railway, massacred 77 men of all categories and all ages, among whom were 22 employees of the French State railway, some industrialists, business men, and workmen. I quote:

"The oldest of these victims, M. Briet, retired, was 74 years old; he was born on 3 October 1869 at Ascq. The youngest, Jean Roques, student and son of the postmaster, was 15 years old, born on 4 January 1929 at Saint Quentin. Father Gilleron, a priest at Ascq, and his two protegées, M. Averlon and his son, who had fled from the coast, were also shot."

This massacre was the cause of a protest made by the French Government at that time, to which Commander-in-Chief Von Rundstedt replied on 3 May 1944 (Document F-673, already submitted as Exhibit Number RF-392, Page 154):

"The population of Ascq bears the responsibility for the consequences of its treacherous conduct, which I can only severely condemn."

General Bérard, president of the French delegation attached to the German Armistice Commission, was not satisfied with the reply given by Rundstedt; and on 21 June 1944 he reiterated the French protest, addressing it this time to General Vogl, president of the German Armistice Commission. This is still Document F-673, Exhibit Number RF-392. I quote:

"In all, from 10 October 1943 to 1st May 1944, more than 1,200 persons were made the victims of these measures of repression. . . .

"These measures of repression strike the innocent and cause terror to reign among the French population. . . .

"A great number of the acts that have been mentioned took place in the course of repressive operations directed against population accused of having relations with the Maquis. In these operations there was never any care taken to discover whether the people suspected of having served the Maquis were really guilty; and still less in this case, to ascertain whether these people had acted voluntarily or under duress. The number of innocent people executed is therefore considerable. . . .

"The repressive operation in Dordogne, from 26 March to 3 April 1944, and particularly the tragic affair of Ascq, which have already brought about the intervention of the head of the French Government, are grievous examples. At Ascq, especially, 86 innocent people paid with their lives for an attempted attack which, according to my information, did not cause the death of a single German soldier. . . .

"Such acts can only stimulate the spirit of revolt in the adversaries of Germany, who finally are the only ones to benefit."

The reply of the Armistice Commission, Document F-707, submitted as Exhibit Number RF-436, is the rejection of General Bérard's request. The document is before you. I do not think it is necessary for me to read it.

The general, on 3 August 1944, reiterated his protest. This is Document F-673, Exhibit Number RF-392, already submitted. At the end of his protest he writes:

"An enemy who surrenders must not be killed even though he is a *franc-tireur* or a spy. The latter will receive just punishment through the courts."

But this is only the text of stipulations to be applied within Germany.

We submit Document F-706, Exhibit Number RF-437, which is a note from the French Secretary of State for Defense to the German general protesting against the measures of destruction taken by the German troops in Chaudebonne and Chaveroche. We shall not read this document. The Tribunal may take judicial notice of it, if it deems it necessary.

We now come to the statement of the events of Tulle, in which 120 Frenchmen were hanged, Page 169 (Document F-673, Exhibit RF-392). I am quoting:

"On 7 June a large group of *francs-tireurs* attacked the French forces employed in the maintenance of order and succeeded

in seizing the greater part of the town of Tulle after a struggle which lasted until dawn....

"The same day, at about 2000 hours, important German armored forces came to the assistance of the garrison and penetrated into the city from which the terrorists withdrew in haste...."

These troops, which re-took Tulle, decided to carry out reprisals. The French Forces of the Interior that had taken the town had withdrawn. The Germans had taken no prisoners. The reprisals were carried out upon civilians. Without discrimination they were arrested.

"The victims were selected without any inquiry, without even any questioning, haphazardly; workmen, students, professors, industrialists. There were even among them some militia sympathizers and candidates for the Waffen SS. The 120 corpses which were hanged from the balconies and lamp-posts of the Avenue de la Gare, along a distance of 500 meters, were a horrible spectacle that will remain in the memory of the unfortunate population of Tulle for a long time."

We now come to the crowning event in these German atrocities: the destruction of Oradour-sur-Glane, in the month of June 1944. The Tribunal will accept, we hope, the presentation of Document F-236, which now becomes Exhibit Number RF-438. This is an official book, published by the French Government, which gives a full description of the events. I will give you a brief analysis of the report which the *de facto* government of the time sent to the German general who was Commander-in-Chief for the regions of the West:

"On Saturday, 10 June, a detachment of SS belonging very likely to the 'Das Reich' division which was present in the area, burst into the village, after having surrounded it entirely, and ordered the population to gather in the central square. It was then announced that it had been reported that explosives had been hidden in the village and that a search and the checking of identity were about to take place. The men were asked to make four or five groups, each of which was locked into a barn. The women and children were taken to the church and locked in. It was about 1400 hours. A little later machine-gunning began and the whole village was set on fire, as well as the surrounding farms. The houses were set on fire one by one. The operation lasted undoubtedly several hours, in view of the extent of the locality.

"In the meantime the women and the children were in anguish as they heard the sound of the fires and of the shootings. At 1700 hours, German soldiers entered the church and placed

upon the communion table an asphyxiating apparatus which comprised a sort of box from which lighted fuses emerged. Shortly after the atmosphere became unbreathable. However someone was able to break open the vestry door which enabled the women and children to regain consciousness. The German soldiers then started to shoot through the windows of the church, and they came inside to finish off the last survivors with machine guns. Then they spread upon the soil some inflammable material. One woman alone was able to escape, having climbed on the window to run away. The cries of a mother who tried to give her child to her, drew the attention of one of the guards who fired on the would-be fugitive and wounded her seriously. She saved her life by simulating death and she was later cared for in a hospital at Limoges.

"At about 1800 hours the German soldiers stopped the local train which was passing in the vicinity. They told passengers going to Oradour to get off, and, having machine-gunned them, threw their bodies into the flames. At the end of the evening, as well as the following day, a Sunday morning, the inhabitants of the surrounding hamlets, alarmed by the fire or made anxious because of the absence of their children who had been going to school at Oradour, attempted to approach, but they were either machine-gunned or driven away by force by German sentinels who were guarding the exits of the village. However, on the afternoon of Sunday some were able to get into the ruins, and they stated that the church was filled with the corpses of women and children, all shrivelled up and calcinated.

"An absolutely reliable witness was able to see the body of a mother holding her child in her arms at the entrance of the church, and in front of the altar the body of a little child kneeling, and near the confessional the bodies of two children in each other's arms.

"During the night from Sunday to Monday the German troops returned and attempted to remove traces by proceeding with the summary burial of the women and children outside the church.

"The news of this drama began to spread through Limoges on the 11th of June.

"In the evening, the general commanding the Verbindungsstab refused to grant the pass, which was personally requested by the Regional Prefect, for him and the Deputy Prefect to move about in the area. Only the Subprefect of Rochechouart was able to go to Oradour and report to his chief on the following day that the village, which comprised 85 houses, was

only a mass of ruins and that the greater part of the population, women and children included, had perished.

"On Tuesday, 13 June, the Regional Prefect finally obtained authorization to go there and was able to proceed to the town, accompanied by the Deputy Prefect and the Bishop of Limoges. In the church, which was partly in ruins, there were still the calcinated remains of children. Bones were mixed with the ashes of the woodwork. The ground was strewn with shells with 'STKAM' marked upon them, and on the walls there were numerous traces of bullets at a man's height.

"Outside the church the soil was freshly dug; children's garments were piled up, half burned. Where the barns had stood, completely calcinated human skeletons, heaped one on the other, partially covered with various materials, made a horrible charnel-house.

"... although it is impossible to give the exact number of these victims, it can be estimated that there were 800 to 1,000 dead, among them many children who had been evacuated from regions threatened by bombardment. There do not seem to have been more than ten survivors among the persons who were present in the village of Oradour at the beginning of the afternoon of 10 June."

Such are the facts.

"I have the honor, General, to ask you"—concluded General Bridoux addressing his enemy—"to be good enough to communicate these facts to the German High Command in France. I greatly hope that they will be brought to the knowledge of the Government of the Reich, because of the political importance which they will assume from their repercussion on the mind of the French population."

An inquiry has been conducted since; it is summed up in the book which has just been placed before you. This inquiry has shown that no member of the French Forces of the Interior was in the village, that there was none within several kilometers. It seems even proved that the causes of the massacre of Oradour-sur-Glane are remote. The unit which perpetrated this crime apparently did so as an act of vengeance, because of an attempt against it about 50 kilometers further away.

The German Army ordered a judicial inquiry. Document F-673, already submitted as RF-392, so indicates; Pages 175 and 176. This document is dated 4 January 1945. There were no Germans in France at that time, at least not in Oradour-sur-Glane. The version given by the German authority is that the reprisals appear to be absolutely justified for military reasons. The German military commander who was responsible for it fell in combat in Normandy.

We shall remember the phrase "The reprisals appear to be absolutely justified for military reasons." Therefore, in the eyes of the German Army, the crime of Oradour-sur-Glane which I have described to you plainly, is a crime which is fully justified.

The guilt of Keitel in all these matters is certain.

In Document F-673, Exhibit Number RF-392—and this will be the end of my statement—there is a strange document which is signed by him. It was drawn up on 5 March 1945. It concerns alleged executions, without trial, of French citizens. You will find it on Page 177. It will show the Tribunal the manner in which these criminal inquiries were conducted, on orders, by the German Army, following incidents as grave as that of Oradour-sur-Glane, which had to be justified at any price. In this document, which should be cited in its entirety, I wish only to look at the next to the last paragraph. It was in the German interest to answer these reproaches as promptly as possible.

THE PRESIDENT: This is not a document of which we can take judicial notice and therefore if you want to put the whole document in you must put it in.

M. DUBOST: I am surprised, Your Honor; you have already accepted it. This is Document F-673. It was submitted as Exhibit Number RF-392 and is the whole bundle of documents of the Wiesbaden German Armistice Commission.

THE PRESIDENT: Yes, but is it a public document? It is not a public document, is it?

M. DUBOST: Am I to understand that the Tribunal wants me to read it in its entirety?

THE PRESIDENT: Well, F-673 seems to be a very large bundle of documents. This particular part of it, this document signed by Keitel, is a private document.

M. DUBOST: It is a document which comes from the German Armistice Commission in Wiesbaden, which was presented several hours ago under Exhibit Number RF-392, and you accepted it.

THE PRESIDENT: I know we accepted its being deposited, but that does not mean that the whole of the document is in evidence. I mean, we have ruled over and over again that documents of which we do not take judicial notice must be read so that they will go through the interpreting system and will be interpreted into German to the German counsel.

M. DUBOST: I am therefore going to give you the reading of the whole document.

THE PRESIDENT: Very well.

M. DUBOST: "The High Command of the Wehrmacht, Headquarters of the Führer, 5 March 1945. WFST Qu 2 (I) Number 01487/45-g; By Captain Cartellieri. Secret. Subject: Alleged executions of French citizens without trial.

"1. German Armistice Commission.

"2. High Command West.

"In August 1944, the French Commission attached to the German Armistice Commission addressed a note to the latter, giving an exact statement of incidents concerning alleged arbitrary executions of Frenchmen from 9 to 23 June 1944.

"The information given in the French note was for the most part so detailed that verification from the German side was undoubtedly possible.

"On 26 September 1944 the High Command of the Wehrmacht entrusted the German Armistice Commission with the study of this affair. The said commission later requested High Command West for an inquiry on the incidents and an opinion on the facts submitted in the French note.

"On 12 February 1945 the German Armistice Commission received from the Army Group B (from the President of the Military Tribunal of Army Group B) a note stating that the documents referring to this affair had been since November 1944 with the Army Judge of Pz. AOK 6, and that Pz. AOK 6 and the Second SS Panzer Division 'Das Reich' had in the meantime been detached from Army Group B.

"The manner in which this affair was inquired into causes the following remarks to be made:

"The French, that is, the Delegation of the Vichy Government have in this memorandum brought on the German Wehrmacht the grave charge of having carried out numerous executions of French subjects, executions which are unjustified by law and therefore murders. It was in the interest of Germany to reply as promptly as possible to such charges. In the long period which has elapsed since the receipt of the French note it should have been possible, in spite of the development of the military situation and the movement of troops resulting therefrom, to single out at least part of these charges and to refute them by examination of the facts. If merely one fraction of the charge had been refuted"—this sentence is important—"it would have been possible to show the French that all their claims were based upon doubtful data. By the fact that nothing at all was done in this matter by the Germans, the

enemy must have the impression that we are not in a position to answer these charges.

"The study of this matter shows that there is often a considerable lack of understanding of the importance of counteracting all enemy propaganda and charges against the German Army by immediately refuting alleged German atrocities.

"The German Armistice Commission is hereby entrusted to continue the study of this matter with all energy. We ask that every assistance be given them for speeding up this work now, within their own field of duty. The fact that Pz. AOK 6 is no longer under High Command West is no reason for impeding the making of the necessary investigations for clearing up and refuting the French charges."

THE PRESIDENT: M. Dubost, you stated, I think, that this document implicated Keitel.

M. DUBOST: It is signed by Keitel, Sir.

THE PRESIDENT: Signed by him, yes, but how does it implicate him in the affair of Oradour?

M. DUBOST: Mr. President, the French Commission, together with the *de facto* Vichy Government, frequently brought to the attention of the German authorities not only the atrocities of Oradour-sur-Glane, but numerous other atrocities. Orders were given by Keitel that these facts, which constitute absolute reality not merely in the eyes of the French but in the eyes of all those who have objectively and impartially inquired into the matter, should be examined for the purpose of refuting part of these charges. This letter refers to the protest lodged earlier by the French, and we read part of it before you in the course of this examination of the question, particularly the facts noted in the letter of General Bridoux which mentions the murder of French people at Marsoulas in the department of Haute-Garonne, among them fourteen children.

THE PRESIDENT: I think you said that that was the last document you were going to refer to?

M. DUBOST: It is the last document.

THE PRESIDENT: Ten minutes past five. Shall we adjourn? M. Dubost, could you let us know what subject is to be gone into tomorrow?

M. DUBOST: Crimes against Humanity, by my colleague M. Faure. If you will allow me to present my conclusion this evening—it will not take long. Our work has been delayed somewhat this afternoon.

THE PRESIDENT: How long do you think you will take, M. Dubost, to make your concluding statement?

M. DUBOST: I think by five-thirty I shall be through.

THE PRESIDENT: I think perhaps, if it is as convenient to you, we had better hear you in the morning. Is it equally convenient to you?

M. DUBOST: I am at the orders of the Tribunal.

[The Tribunal adjourned until 1 February 1946 at 1000 hours.]

FORTY-EIGHTH DAY

Friday, 1 February 1946

Morning Session

MARSHAL: May it please the Court, I desire to announce that Defendants Kaltenbrunner and Seyss-Inquart will be absent from this morning's session on account of illness.

M. DUBOST: I have now completed my presentation of facts. This presentation has consisted of a dry enumeration of crimes, atrocities, extortions of all sorts, which I deliberately presented to you without any embellishments of oratory. The facts have a profound eloquence which suffices. These facts are, it seems to me, definitely established. I do not believe that the Defense, nor history—even German history—will be able to set aside their essential aspects. They will no doubt be exposed to criticism.

Our evidence was hastily collected in a ruined country whose every means of communication had been destroyed by an enemy in flight, in a country where each individual was more concerned with preparation for the future than with looking back upon the past, even to exact vengeance, for the future is the life of our children, and the past is but death and destruction.

For the whole of France, for each country in the West, the demands of daily life, the difficulty of preparing for a better future once again give full meaning to the words of the Scriptures, *Sinite mortuos sepelire mortuos* (Let the dead bury their dead.); and that is why in spite of all our efforts, all our endeavors, to prepare the work of justice which France and universal conscience demand, we were not able to be more thorough. That is why errors of detail may have slipped into our work, but the rectifications which time and the Defense will effect can be only accessory. They will not eliminate the fact that millions of men have been deported, starved, exhausted through labor and privation before being put to death, like cattle without value; that innumerable innocent persons have been tortured before being turned over to the executioner. Rectifications may affect circumstances of time, sometimes of place; they will not change the essential facts even if a few details are modified.

But these facts, having been established in their general aspect, it remains for us to complete our task by giving them juridical significance, by analyzing them with reference to the law of which

they constitute a violation, and by making clear the inculpations, in other words, by fixing the responsibilities of each defendant in respect to a law.

What law shall we apply? Taken one by one and separated from the systematic policy which conceived, willed, and ordered them as a means of achieving domination through terror and beyond that as a means of extermination pure and simple; these facts constitute crimes against common law as much as violations of the laws and usages of war and of international law. All of them could therefore be defined separately as a violation of an international convention and of a penal provision of one or another of our established domestic laws. Or rather all could be qualified as a violation of a rule of common law which has emerged from each of our own domestic laws, as shown by M. De Menthon in his address; of that common law which, in the last analysis, was designated by him as being the foundation, as the root of international customs, which, beyond the Charter itself, is and remains the one and only guide of your decisions.

But it is right to know that this common law springs from our established laws and, like them, punishes in principle actual misdeeds. Now, all of our defendants remained physically divorced from each of the criminal facts which in the ubiquity of their power they multiplied throughout the world. It was their will which commanded; but, as Mr. Justice Jackson recalled, they never reddened their own hands with the blood of their victims. Therefore, if we refer exclusively to our established laws and especially to French domestic law, the defendants could not, in any case, be considered as principal authors but merely as accomplices "who have provoked the act through abuse of authority or of power." All of that is indeed a contradiction to the conception which each person in our countries holds of the guilt of the major war criminals. To solve the problem thus would be to narrow singularly the field of responsibility of each of the defendants. This responsibility would appear merely accessory, where, in fact, it is the principal responsibility; it would appear fragmentary, whereas to be truly fixed it must be presented as one single time, in the whole of their thoughts, intentions, and acts as chiefs of the Nazi government who conceived, willed, ordered, or tolerated the development of that systematic policy of terror and extermination, of which each fact taken separately is but a particular aspect, merely a constituent element. Thus a simple reference to common law does not bring us close enough to reality. If it does not omit, as such, any of the facts to which guilt attaches, it does leave aside the psychological factor and does not give us a complete conception of the guilt of the accused in a single formula embracing all the reality. That is

because common law expresses a certain status of common morality which is accepted by civilized nations as law for the mutual relations of citizens. Profoundly imbued with the concept of individualism, this common law is not adequate to meet the exigencies of collective life which international morality must govern. Furthermore, this common law which is the foundation of our tradition has become static in a Cartesian sense, whereas our custom remains enriched by all the dynamism of international penal law. The Charter has not fixed the manner in which we are to qualify in a juridical sense the facts which I have presented before you. In creating your Tribunal, the authors of the Charter limited themselves to establishing the limits of your jurisdiction: War Crimes, Crimes against Humanity, Crimes against Peace; and even then they did not give an exhaustive definition of each of these crimes. The Tribunal may refer on this point to Article 6, paragraphs b and c of the Charter of the Tribunal. This article gives only an indicative enumeration. That is because the authors of the Charter bore in mind that international penal law is only still in the first phase of the birth of a custom in which law is developed by reaction to the deed and where the judge intervenes only to save the criminals from individual vengeance or where law is applied by the judge alone and the penalty pronounced according to his sole judgment. Thus, the authors of the Charter abstained from giving us a fixed method of qualification by reference to common law or on the contrary, to custom. They did not say to you:

> "You will take one by one the criminal facts submitted to you, and each fact taken separately shall be isolated from the others to be defined by reference to a stipulation of any one domestic law or to a synthesis of domestic laws, yielding thus a common law."

Nor did they say to you:

> "You will take these scattered criminal facts, you will group them together to make of them one single crime of which the definition, respecting in a general sense the rules of common law, will be essentially determined by the sole intention or purpose sought, without attempting to seek by analogy any precedents in the different domestic laws which apply only, moreover, to an entirely different subject."

The authors of the Charter have left you free, entirely free, within the limits of custom; and consequently we, ourselves, within the same limitations are free to propose to you such qualification which appears to us most practical, which appears to us to come closest to the changing reality of facts in their relation to the general principles of law and the broad rules of morality which may seem

to us to be such as to meet best the demands of human conscience expressed by international public opinion duly enlightened on Hitlerian atrocities, which will, in fact, remain within the limits of international penal custom. This custom is indeed still in a formulative stage; but although this Trial is without precedent, the problems that are being examined in this Court have arisen before; and the jurists who preceded us have already given them solutions. These solutions constitute precedents; and, as such, they constitute the first elements of your custom. In their memorandum to the Commission on the Responsibility of the Authors of the War and on Sanctions at the Peace Conference of 1919-1920 the French jurists, M. Larnaude and M. De Lapradelle wrote:

> "Criminal law could not foresee that through a singular defiance of the essential laws of humanity, of civilization, of honor, an army, by virtue of the instructions of its sovereign, could systematically lend itself to perform deeds through the perpetration of acts such as the enemy has not shrunk from performing in order to achieve success and victory. Therefore, domestic criminal law has never before been able to make provisions which would permit the repression of such acts. And still one must, in the interpretation of every law, cling to the intention of the law maker.... If, in certain cases considered particularly propitious, one might succeed in apprehending individuals bearing responsibility of whom the Emperor could be considered an accomplice one would only succeed, and not without difficulty, in narrowing the field of his responsibility by limiting it to a few precise cases.... It is a very restricted approach to the problem of William II to diminish it and reduce it to the proportions of a criminal or a court-martial case.... The high justice which an anxious world awaits would not be satisfied if the German Emperor were judged only as an accomplice or even as the co-author of a common-law crime. His actions as Chief of State must be considered in conformity with their true juridical character...."

But except for minor details all of this is indeed implicitly contained in the last paragraph of Article 6 of the Charter of your Tribunal:

> "Leaders, organizers, instigators, and accomplices participating in the formulation or execution of a Common Plan or Conspiracy to commit any of the foregoing crimes"—Crimes against Peace, War Crimes, Crimes against Humanity—"are responsible for all acts performed by any persons in execution of such plan."

Fundamentally, all this is within strict conformity with the primordial German concept of Führertum, which places all responsibility on the leader and those who are with the leader from the very start. Thus we can, by coming as close as possible to reality, by applying the Charter of 8 August and Article 6 of the Charter of your Tribunal, by respecting the rules of common law defined by the chief of our delegation, M. De Menthon, and by following custom, which is sketched in the field of international penal law, require of your Tribunal to declare all the defendants guilty of having, in their role as the chief Hitlerian leaders of the German people, conceived, willed, ordained, or merely tolerated by their silence that assassinations or other inhuman acts be systematically committed, that violent treatment be systematically imposed on prisoners of war or civilians, that devastations without justification be systematically committed as a deliberate instrument for the accomplishment of their purpose of dominating Europe and the world through terrorism and the extermination of entire populations in order to enlarge the living space of the German people.

More specifically, we ask you to declare Göring, Keitel, and Jodl guilty of having taken part in the execution of this plan by ordering the seizure and the execution of hostages in violation of Article 50 of the Hague Convention which prohibits collective sanctions and reprisals.

We ask you to find Keitel, Jodl, Kaltenbrunner, Seyss-Inquart, Bormann, and Ribbentrop guilty of having taken part in the execution of this plan: 1. by ordering the terrorist murders of innocent civilians; 2. by ordering the execution without trial and torture to death of members of the resistance; 3. by ordering devastations without justification:

To declare Göring, Keitel, Jodl, Speer, and Sauckel guilty of having taken part in the execution of this plan by jeopardizing the health and the lives of prisoners of war, notably by submitting them to privations and hard treatments, by exposing them, or by attempting to expose them to bombings or other risks of war:

To declare Göring, Keitel, Jodl, Kaltenbrunner, and Bormann guilty of having taken part in the execution of this plan, by personally ordering or by provoking the formulation of orders leading to terrorist murder or to the lynching by the population of certain combatants, more specifically, of airmen and members of commando groups as well as the terrorist murder or slow extermination of certain categories of prisoners of war:

To declare Keitel guilty of having taken part in the execution of this plan by prescribing the deportation of innocent civilians and by applying to some of them the NN (Nacht und Nebel) regime which marked them for extermination:

To declare Jodl guilty of having taken part in the execution of this plan by ordering the arrest, with a view to deportation, of the Jews of Denmark:

To declare Frank, Rosenberg, Streicher, Von Schirach, Sauckel, Frick, and Hess guilty of having taken part in the execution of this plan, by justifying the extermination of Jews or by working out a statute with a view to their extermination:

To declare Göring guilty of having taken part in the execution of this plan: 1. by creating concentration camps and by placing them under the control of the State Police for the purpose of ridding National Socialism of any opposition; 2. by tolerating and then by approving fatal physiological experiments on the effect of cold, and of increasing or decreasing pressure, which experiments were carried out—with material provided by the Luftwaffe and controlled by Dr. Rascher, medical officer of the Luftwaffe detailed to the concentration camp of Dachau for that purpose—on healthy deportees who were involuntary subjects for the said experiments with which he (Göring), as chief, associated himself; 3. by utilizing in large numbers internees for exhausting labor under inhuman conditions in the armament factories of the Luftwaffe:

To find Speer guilty of having taken part in the execution of this plan by employing in large numbers the internees for exhausting labor under inhumane conditions in the armament factories (Document Number 1584-PS):

To find Bormann guilty of having taken part in the execution of this plan by participating in the extermination of internees in concentration camps (Document Number 654-PS).

With regard to Dönitz, Raeder, Von Papen, Von Neurath, Fritzsche, Funk, and Schacht, we associate ourselves with the conclusion of our British and American colleagues. And in connection with the acts above defined, we ask you further, in accordance with the stipulation of Article 9 of the Charter of your Tribunal, to find the OKW and the OKH guilty of the execution of this plan by having ordered and participated in the deportation of innocent civilians from the occupied countries in the West:

To find the OKW, the OKH, and the OKL guilty of the execution of this plan by participating in the setting-up of the doctrine of hostages as a means to terrorize and by prescribing the seizure and execution of hostages in the countries of the West, by reducing to a degrading level the material living conditions of prisoners of war, by depriving the latter of the guarantees granted them by international custom and by positive international law, by ordering or by tolerating the employment of prisoners of war in dangerous work or in labor directly connected with military operations, by ordering the execution of escaped prisoners or prisoners attempting to escape,

and the execution of numerous groups of commandos, and by giving the SS and SD directives for the extermination of airmen:

To find the OKL guilty of having participated in the execution of this plan: 1. by employing in large numbers internees in concentration camps for exhaustive labor under inhuman conditions in the armament factories of the Luftwaffe; 2. by participating in fatal physiological experiments on the effect of cold and of increasing or decreasing pressure, which experiments were carried out for the benefit of the Luftwaffe and conducted by Dr. Rascher, medical officer of the Luftwaffe, attached to the concentration camp at Dachau (Documents 343-PS, 1610-PS, 669-PS, L-90, 668-PS, UK-56, 835-PS, 834-PS, F-278 (B)):

To find the SS and the SD guilty of the execution of this plan by having deported and participated in the deportation of innocent civilians from the occupied countries in the West and by having tortured them and exterminated them by every means in concentration camps:

To find the SS, the SD, and the Gestapo guilty of the execution of this plan by having given direct orders for the execution or the deportation, with a view to their slow extermination, of members of commando groups, airmen, escaped prisoners, those who refused to accept forced labor, or those who were rebellious to the Nazi order; by forbidding any repression of acts of lynching committed by the German population on airmen brought down:

To find the SS, the SD, and the Gestapo guilty of having tortured and of having executed without trial members of the resistance:

To find the same organizations and in addition, the OKW and the OKH in collusion with the SS, the SD, and the Gestapo guilty of having committed or ordered massacres and devastations without justification (Documents 1063-PS, F-285, R-91, R-129, 1553-PS, L-7, F-185(A)):

To find the Gestapo guilty of having participated in the execution of this plan by the deportation of innocent civilians from the occupied countries of the West by the tortures and assassinations which were inflicted on them:

To find the Government of the Reich (Reichsregierung) and the Leadership Corps of the National Socialist Party guilty of having, for the purpose of dominating Europe and the world, conceived and prepared the systematic extermination of innocent civilians from the occupied countries of the West through their deportation and their assassination in concentration camps:

To find the Leadership Corps of the National Socialist Party and the Government of the Reich guilty of having, for the purpose of dominating Europe and the world through terrorism, systematically

conceived and provoked tortures, summary executions, massacres, and devastation without cause as described above:

To find the Government of the Reich and the Leadership Corps of the Nazi Party guilty of having, for the purpose of dominating Europe and the world, conceived and prepared the extermination of combatants who had surrendered and the demoralization, extensive exploitation, and extermination of prisoners of war, and having participated in it.

Such are the juridical qualifications of the facts which I have the honor of submitting to you. But a few lessons emerge from these facts. May the Tribunal permit me to state them in conclusion.

For hundreds of years humanity has renounced the deportation of the vanquished, their enslavement, and their annihilation through misery, through hunger, steel, and fire. It is because a message of brotherhood had been given to the world, and the world could not entirely forget this message even in the midst of the horrors of war. From generation to generation we observed an upward effort ever since this message of peace had been given. We were confident that it was without any thought of regressing that man had taken the view of moral progress which formed a part of the common heritage of civilized nations. All nations revered, equally, good faith in relations among individuals. All of them had come to accept good faith as the law of their mutual relationship. International morality was little by little emerging and international relationship, like that between individuals, was more and more falling in line with the three precepts of the classical Roman jurists: "*Honeste vivere, alterum non laedere, suum cuique tribuere.*" (Live honorably, inflict no harm on another, give each his due.)

Every civilized nation had been impregnated with a common humanism, growth of a long tradition, Christian and liberal. Based on this common heritage and achieved at the price of given experience, each nation, enlightened by the well-conceived interests of man, had understood or was coming to understand that in public as in private affairs loyalty, moderation, and mutual aid were golden rules which none could transgress indefinitely and with impunity.

The defeat, the catastrophe which has fallen upon Germany confirm us in this thought and give only more meaning and more clarity to the solemn warning addressed to the American people by President Roosevelt in his address on 27 May 1940:

> "Although our Navy, our guns, and our planes are the first line of defense, it is certain that back of all of that there is the spirit and the morality of a free people which give to their material defense power, support, and efficiency. . . ."

And in this struggle, the echoes of which are still rumbling in our ears, it was indeed those who could rest their strength upon law,

nourish their force with justice, who won out. But because we have followed step by step the development of the criminal madness of the defendants and the consequences of that madness throughout these last years, we must conclude that the patrimony of man, of which we are the recipients, is frail indeed, that all kinds of regressions are possible, and that we must with care watch over their heritage. There is not a nation which, ill-educated, badly led by evil masters, would not in the long run revert to the barbarity of the early ages.

The German people whose military virtue we recognize, whose poets and musicians we love, whose application to work we admire, and who did not fail to give examples of probity in the most noble works of the spirit; this German people, which came rather late to civilization, beginning only with the eighth century, had slowly raised itself to the ranks of nations possessing the oldest culture. The contribution to modern or contemporary thought seemed to prove that this conquest of the spirit was final; Kant, Goethe, Johann Sebastian Bach belong to humanity just as much as Calvin, Dante, or Shakespeare; nevertheless, we behold the fact that millions of innocent men have been exterminated on the very soil of this people, by men of this people, in execution of a common plan conceived by their leaders, and this people made not a single effort to revolt.

This is what has become of it because it has scorned the virtues of political freedom, of civic equality, of human fraternity. This is what has become of it, because it forgot that all men are born free and equal before the law, that the essential action of a state has for its purpose the deeper and deeper penetration of a respect for spiritual liberty and fraternal solidarity in social relations and in international institutions.

It allowed itself to be robbed of its conscience and its very soul. Evil masters came who awakened its primitive passions and made possible the atrocities which I have described to you. In truth, the crime of these men is that they caused the German people to retrogress more than 12 centuries.

Their crime is that they conceived and achieved, as an instrument of government, a policy of terrorism toward the whole of the subjugated nations and toward their own people; their crime is that they pursued, as an end in itself, a policy of extermination of entire categories of innocent citizens. That alone would suffice to determine capital punishment. And still, the French Prosecution, represented by M. Faure, intends to present proof of a still greater crime, the crime of attempting "to obliterate from the world certain ideas which are called liberty, independence, security of nations, which are also called faith in the given word and respect for the human

person," the crime of having attempted to kill the very soul, the spirit of France and other occupied nations in the West. We consider that to be the gravest crime committed by these men, the gravest because it is written in the Scriptures, Matthew, XII, 31-32:

> "All manner of sin and blasphemy shall be forgiven unto men, but the blasphemy unto the Spirit shall not be forgiven unto men. Whosoever speaketh against the Spirit shall not be forgiven, neither in this world, nor in the world to come.... For the tree is known by its fruit. Race of vipers, how could ye speak good words when ye are evil...."

THE PRESIDENT: *[To M. Faure of the French Delegation]* Yes, M. Faure.

M. EDGAR FAURE (Deputy Chief Prosecutor for the French Republic): Mr. President, Honorable Judges, I have the honor of delivering to the Tribunal the concluding address of the French Prosecution. This presentation relates more particularly to the sections lettered (I) and (J) of Count Three of the Indictment: oath of allegiance and Germanization; and on the other hand to section (B) of Count Four, persecutions on political, racial, and religious grounds.

First of all I should like to present in a brief introduction the general ideas which govern the plan of my final pleading. The concept of Germanization has been stated in the presentation of M. De Menthon. It consists essentially in imposing upon the inhabitants of occupied territories norms for their political and social life such as the Nazis had determined according to their own doctrine and for their own profit. The combined activities which carried out Germanization or which have Germanization for their purpose, and which are illegal, have been defined as a criminal undertaking against humanity. The complete process of Germanization was employed in certain territories to annex them to the Reich. The Germans intended even before the end of the war to incorporate these territories within their own country. These territories, annexed and then germanized in an absolute manner, are the Grand Duchy of Luxembourg, the Belgian Cantons of Eupen, Malmedy, and Moresnet, and the three French Departments of Haut-Rhin, Bas-Rhin and the Moselle.

These territories can be considered relatively small in comparison with the total area of the territories occupied by the Germans. This in no wise mitigates the reprehensible character of these annexations; moreover, we should note at this point two essential aspects of our subject.

The first proposition: The Germans had conceived and prepared more extensive annexations than those actually carried out in an

official manner. For reasons of expediency, they did not proceed with these annexations during the period of time at their disposal.

The second proposition: Annexation, on the other hand, was not the unique or obligatory procedure of Germanization. The Nazis discovered that they could employ different and various means to achieve their purpose of universal domination. The selection of means which vary according to circumstances, to attain and to camouflage an identical result, was characteristic of what has been called Nazi Machiavellism. Their conception is technically much more pliable, more clever, and more dangerous than the classical conception of territorial conquest. In this respect the most brutal competitor has over them the advantage of candor.

To begin with I say that the Germans had formulated the plan to annex more extensive territory. Numerous indications point to this. I would like to give you only two citations.

The first of these is taken from the documentation collected by our colleagues of the American Prosecution, an American document which has not yet been submitted to the Tribunal. I should say in addition that in my final pleading I shall refer only twice to very remarkable American documents. All the other documents which I shall submit will be new ones belonging to the French Prosecution. The document of which I speak now is Number 1155-PS of the American documents, and it appears in the file of documents submitted to you under Number RF-601, which will become, may it please the Tribunal, that number in French documentation.

This document is dated Berlin, 20 June 1940. It bears the notation: "Top Secret Staff Document." Its title is: "Note for the Dossier on the Conference of 19 June 1940, at Headquarters of General Field Marshal Göring."

The notes which are included in this document reflect, therefore, the views of the leaders and not individual interpretations. I would like to read to the Tribunal only Paragraph 6 of that document, which is to be found on Page 3. It is the first document bearing Number RF-601 (Document Number 1155-PS). I proceed with the reading of Paragraph 6, Page 3:

"General plans regarding the political development.

"Luxembourg is to be annexed by the Reich. Norway is to become German. Alsace-Lorraine is to be reincorporated into the Reich. An autonomous Breton state is to be created. Considerations are pending concerning Belgium, the special treatment of the Flemish in that country, and the creation of a State of Burgundy."

The second citation which I shall submit to the Tribunal on this point refers to a French document which I submit as Document

Number RF-602. This document comprises the minutes of the interrogation of Dr. Globke, a former assistant of State Secretary of the Ministry of the Interior, Dr. Stuckart. It is dated 25 September 1945. This interrogation was taken by Major Graff of the French Judicial Service.

To the minutes of the interrogation has been added a memorandum which was delivered following the questioning by Dr. Globke. I read a passage from this interrogation, at the beginning of the document, Paragraph 1:

"Question: 'Have you any knowledge of plans which envisage the annexation of other French territories at the conclusion of peace between Germany and France? (Belfort, Nancy, Bassin de Briey, the coal fields of the North, the so-called "Red Zone", territory attached to the Government General of Belgium)?'

"Answer: 'Yes, those plans did exist. They were worked out by Dr. Stuckart, upon the personal instruction of the Führer, and I have seen them. They were communicated to the Ministry of Foreign Affairs, to the OKW, and to the Armistice Commission in Wiesbaden. All these documents have been destroyed (Dr. Globke maintains). The State Secretary, M. Stuckart, was ordered to deliver a preliminary draft at the headquarters of the Führer (End of 1940, before the launching of the Russian campaign).

" 'After examination the Führer considered the proposal was too moderate; and he ordered provisions for the incorporation of further territories, specifically those along the Channel.

" 'Dr. Stuckart then prepared a second draft, with a map attached, on which the approximate borders were indicated. I have seen it, and I can show it to you roughly on a large-scale map of France. I do not know whether this second plan was approved by Hitler.' "

THE PRESIDENT: M. Faure, did you tell us who Dr. Globke was?

M. FAURE: Yes, Mr. President, he was the assistant of Dr. Stuckart, State Secretary in the Ministry of Interior. He styled himself in his interrogation "officer in charge of matters concerning Alsace-Lorraine and Luxembourg in the Ministry of the Interior, since 1940."

I now read a passage from the attached memorandum. This appears in your document book immediately after the passage I have just read. Still under Document Number RF-602, I now read Paragraph 6 of the memorandum in question; it is the beginning of the document before your eyes.

"The plan of a new Franco-German border was elaborated upon in the Ministry of Interior by the State Secretary Dr. Stuckart, upon the order given to him by Hitler. This plan envisaged that the territory in the north and the east of France which, for historical, political, racial, geographical, or any other reasons ostensibly did not belong to western but to central Europe, should be given back to Germany. A first draft was submitted to Hitler at his general headquarters and it was approved by him in full. Hitler nevertheless wanted . . ."

DR. STAHMER: The Defense has not received these documents. Consequently, even today we are not in a position to follow the presentation. Above all, we are not in a position to check individually whether the validity of these documents really exists at all.

THE PRESIDENT: M. Faure, is that correct, that none of these documents have been deposited in the Defense Information Center?

M. FAURE: They have been deposited with two photostatic copies in the document center of the defendants' counsel. Moreover, before I complete my statement, I think that the Defense Counsel will have full opportunity to study this very brief document and to make any observations which he may desire; but I can give you assurance that those documents were delivered.

THE PRESIDENT: What assurance can you give me that the orders which the Tribunal has given have been carried out?

M. FAURE: The documents have been delivered to the Defense Counsel in accordance with instruction and two photostatic copies have been delivered in the document room of the Defense. These documents are, moreover, in the German language, which should greatly facilitate the task of the Defense Counsel, as the interrogation was taken in the German language by an officer of the French Judiciary Services.

THE PRESIDENT: Dr. Stahmer, did you hear what M. Faure said?

DR. STAHMER: I should certainly not raise any objections if these documents had actually been sent to our document room and put at our disposal. This morning I and several others looked into the matter and made an effort to determine whether the documents were really there. We could not find out. Dr. Steinbauer and I went there; we could not find the documents. I shall go there again to see whether they may not have come in the meantime.

THE PRESIDENT: The Tribunal has stated on a variety of occasions that they attach a great importance to the documents being deposited in the defendants' Information Center and copies supplied in accordance with the regulations which they have laid down. Whether that has been done on this occasion, is disputed by Dr.

Stahmer. The Tribunal proposes therefore to have the matter investigated as soon as possible and to see exactly whether the rules have been carried out or not. And in future they hope that they will be carried out with the greatest strictness. In the meantime, I think it will be most convenient for you to continue.

M. FAURE: The defendants' counsel tells me that the documents are in the Defense Counsel Room, but they have not yet been distributed. It can be seen, therefore, that the orders were fully respected; but because of the burden of work it may be that the Defense may not individually have received these documents. In any event, I am prepared to submit immediately to the Defense Counsel mainly concerned with this, photostatic copies which will enable them to follow my reading of the documents, which, incidentally, are quite brief.

THE PRESIDENT: Well, the Tribunal will have the facts investigated by the Marshal. And in the meantime, you can continue. The Marshal of the Court will immediately find out and report to the Tribunal what the facts are about the deposition of the documents and the time at which they were deposited. In the meantime you can continue, and we shall be glad if you will assist the defendants' counsel by giving them any copies you may have available.

M. FAURE: I was reading then, Document Number RF-602, the attached memorandum. If the Tribunal wishes to follow the reading of this document will it kindly take the book entitled "Exposé" or "Presentation," and turn to Page 6 thereof. The passage which I am now coming to is the last paragraph of Page 6. "Introduction—Exposé," Page 6, third and last paragraph, I am continuing:

> "A first draft was submitted to Hitler at his general headquarters and was approved by him as a whole; but, nevertheless, he called for an enlargement of the territory falling to Germany, in particular, along the Channel coast. The final draft was to serve as the basis for future discussions with the administrative departments concerned. These discussions did not take place. The intended frontier followed approximately a course beginning at the mouth of the Somme, turning eastward along the northern edge of the Paris Basin and Champagne to the Argonne, then bent to the south crossing Burgundy, and westward of the Franche-Comte, reaching the Lake of Geneva. For some districts alternative solutions were suggested."

These German plans were indicated on several occasions by specific measures having to do with the territories in question, measures which might be designated preannexation measures.

I come now to the second proposal which I referred to a while ago. With or without annexation, the Germans had in mind to take and maintain under their domination all the occupied countries. As a matter of fact their determination was to germanize and to nazify all of Western Europe and even the African Continent. This intention appears from the very fact of the conspiracy which has been laid bare before the Tribunal so completely by my colleagues of the American Prosecution. That will also be shown by the applications made of it, of which the principal ones will be retraced in this concluding address.

I merely want to recall to the Tribunal this general point that the plan for Germanic predominance is defined according to the German interpretation itself in a public diplomatic document, which is the Tripartite Pact of 27 September 1940 between Germany, Italy, and Japan. In this connection I would like to quote before the Tribunal a few sentences of a comment made upon this treaty by an official German author, Von Freytagh-Loringhoven, a member of the Reichstag, who wrote a book on German foreign policy from 1933 to 1941. This book was published in a French translation in Paris at the publishing house of Sorlot, during the occupation.

I do not want to submit this as a document, but merely as a quotation from a published work, a book, which is here in your hands. I read from Page 311:

> "This treaty granted Germany and Italy a dominant position in the new European order, and it accorded Japan a similar role in the area of eastern Asia."

I am now skipping a sentence that has no significance.

> "At first glance, one could realize that the Tripartite Pact had in mind a double purpose."

I shall skip the following sentence which is without interest, and I go to the sentence dealing with the second purpose:

> "Moreover, it entrusted the parties with a mission for the future, that is to say, the establishment of a new order in Europe and eastern Asia.
>
> "Without seeking to lessen the importance of the first question, there can be no doubt that this second purpose, dealing with the future, involved vaster projects and was, in fact, the principal point. For the first time in an international treaty, in the Tripartite Pact, the terms 'space' and 'orientation' were used linking one with the other."

I now go to Page 314 where the author makes a remark which appears to me to be significant:

"Now, the Tripartite Pact places a clear delimitation of the wider spaces created by nature on our globe. The concept of space, it is true, is employed explicitly only for the Far East, but it is equally applicable to Europe and that within this conception Africa is comprised. The latter is certainly politically and economically a complement, or if one wishes, an annex of Europe. Moreover, it is obvious that the Tripartite Pact fixes the limits of the two great regions or spaces reserved for the partners, that the pact tacitly recognizes the third area, that is Asia, properly speaking, and that it leaves aside the fourth, the American Continent, thus leaving the latter to its own destiny. In this way the whole surface of the globe is concerned; and an idea, which as yet has not been considered except in theory, was given the significance of a political principle derived from international law."

I have felt that this text was of interest because, on the one hand, it clarifies the fact that the African Continent is itself included in the space reserved to the German claimants, and on the other, it states that the government of such an immense space by Germany constitutes international law. This pretense of acting juridically is one of the characteristics of the undertaking to germanize the world from 1940 to 1945. It is undoubtedly one of the reasons which inspired Nazi Germany to proceed only on rare occasions by the annexation of territories.

Annexation is not indispensable for the domination of a great area. It can be replaced by other methods which correspond rather accurately to the usual term of "vassalization."

THE PRESIDENT: Do you not think this will be a convenient time to break off?

[A recess was taken.]

M. FAURE: Mr. President, before resuming my brief, I should like to ask the Tribunal if they could agree to hear, during the afternoon session, a witness who is M. Reuter, President of the Chamber of Luxembourg.

THE PRESIDENT: Certainly, M. Faure, if that is convenient to you, the Tribunal is quite willing to hear the witness you name.

M. FAURE: I propose on those conditions to have him heard at the beginning of the second part of the afternoon session.

I pointed out a moment ago that the different methods of disguised annexation can correspond to the term "vassalization." From a German author I shall borrow a formula which is eloquent.

It is Dr. Sperl, in an article in the *Krakauer Zeitung,* who used this expression: "A differentiation in methods of German domination." In using, thus, indirect and differentiated methods of domination, the Germans acted in political matters, as we have seen before, in the same way as they acted in economic matters. I had the opportunity to point out to the Tribunal, in my first brief, that the Germans immediately seized the keys of economic life. If you will permit me to use this Latin expression, I shall say as far as sovereignty in the occupied countries is concerned, they insured for themselves the power of the keys, "*potestas clavium.*" They seized the keys of sovereignty in each country. In that fashion, without being obliged to abolish officially national sovereignty as in the case of annexation, they were able to control and direct the exercise of this sovereignty.

Beginning with these principle ideas, the plan of my brief was conceived as follows:

In the first chapter I shall examine the regime in annexed territories where national sovereignty was abolished. In a second chapter I shall examine the mechanism of the seizure of sovereignty for the benefit of the occupying power in the regions which were not annexed. Then it will be suitable to examine the results of these usurpations of sovereignty and the violation of the rights of the population which resulted from them. I thought it necessary that I should group these results by dealing with the principal ones in a third and fourth chapter. The third chapter will be devoted to spiritual Germanization, that is, to the propaganda in the very extensive sense that the German concept gives to this term. Chapter four, and the last, will bear the heading, "The Administrative Organization of Criminal Action."

I would now like to point out, as far as the documentation of my brief is concerned, I have forced myself to limit the number of texts which will be presented to the Tribunal; and I shall attempt to make my quotations as short as possible. For the fourth chapter, for example, I might point out that the French Delegation examined more than 2,000 documents, counting only the original German documents, of which I have kept only about fifty.

I should like also to point out to the Tribunal how the documents will be presented in the document books which you have before you. The documents are numbered at the top of the page to the right; they are numbered in pencil and correspond to the order in which I shall quote them. Each dossier has a pagination which begins with the number 100.

I would ask the Tribunal now to take up the document book entitled: "The Annexed Territories of Eupen, Malmédy, and Moresnet."

In carrying out, without any attempt or cloak of legality, the annexation of occupied territories, Germany did something much more serious than violating the rules of law. It is the negation of the very idea of international law. The lawyer, Bustamante y Sirven, in his treatise on international law expresses himself in the following terms regarding this subject:

"It can be observed that never have we alluded at any moment to the hypothesis that an occupation terminates because the occupying power takes possession of the occupied territory through his military forces and without any convention. The motive for this mission is very simple and very clear. Since conquest cannot be considered as a legitimate mode of acquisition, these results are uniquely the result of force and can be neither determined nor measured by the rules of law."

On the other hand, I have said just now that Germanization did not necessarily imply annexation. Inversely, we might conceive that annexation did not necessarily mean Germanization. We shall prove to the Tribunal that annexation was only a means, the most brutal one of Germanization, that is to say, nazification.

The annexation of the Belgian cantons of Eupen, Malmédy, and Moresnet was made possible by a German law of 18 May 1940 and was the subject of an executive decree of 23 May 1940. These are public regulations, which were published in the *Reichsgesetzblatt,* Pages 777 and 804. I should like to ask the Tribunal to take judicial notice of this.

As a result of this decree the three Belgian districts were attached to the province of the Rhineland, district of Aachen.

A decree dated 24 September 1940 installed local German government and German municipal laws. A decree of 28 July 1940 introduced the German judicial system in these territories. Local courts were established in Malmédy, in Eupen and St. Vith, and district courts at Aachen, which could judge cases on equality with the local courts.

The Court of Appeal of Cologne replaced the Belgian Court of Cassation for cases where the latter would have been competent. German law was introduced in these territories by the decree of 23 May 1940, signed by Hitler, Göring, Frick, and Lammers and was effective as from September 1940.

A decree of 3 September 1940 regulates the details of the transition of Belgian law into German law in the domains of private law, commercial law, and law of procedure.

By the decree of annexation German nationality was conferred upon the inhabitants of German racial origin in this Belgian

territory. The details of this measure were specified and stipulated by the decree of 23 September 1941. All persons who had acquired Belgian nationality as a result of the ceding of these territories could, according to the terms of the decree, resume their German nationality, with the exception, however, of Jews and Gypsies. All the other inhabitants, on condition that they were racially German, could acquire German nationality, which might be revoked after 10 years.

I shall not take up at great length the situation which resulted from the annexation of these Belgian territories, for the developments of the situation are analogous to those which we shall examine in the other countries. I simply would like to point out a special detail of this subject: A law of 4 February 1941, signed by Hitler, Göring, Frick, and Lammers granted the citizens of Eupen, Malmédy, and Moresnet representation in the Reichstag, that is to say, the benefits of the German parliamentary regime, the democratic character of which is known.

I shall ask the Tribunal to now take up the file entitled "Alsace and Lorraine." There is a file, "Exposé," and a file, "Documents."

Contrary to what took place in the Belgian cantons the Germans did not officially proclaim by law the annexation of the three French departments which constitute Alsace and Lorraine. The fact of this annexation, however, is in no way doubtful. I should like to remind the Tribunal here of extracts from a document which has already been submitted to it, which is Document Number RF-3 of the French documentation. It concerns a deposition made before the French High Court of Justice, by the French Ambassador, Léon Noël, who was a member of the Armistice Delegation. I did not put this document in your book because I shall cite only one sentence from it. The document has already been submitted to the Tribunal, as I have just said.

Ambassador Noël, in this document, pointed out the conversations which he had at the time of the signing of the Armistice Convention with the German representatives, notably with the accused Keitel and Jodl. The sentence which I would like to remind the Tribunal of is as follows:

> "... and likewise, in thinking of Alsace and Lorraine, I required them to say that the administrative and judicial authorities of the occupied territories would keep their positions and functions and would be able to correspond freely with the government."

The affirmations are dated 22 June 1940.

I am now going to submit to the Tribunal a document of 3 September 1940, which is a note of protest of the French Delegation, addressed to the Armistice Commission. I submit this to the

Tribunal in order that the Tribunal may see that during the period which elapsed between these two dates, a period which covers barely 2 months, the Nazis had applied a series of measures which created, in an incontestable manner, a state of annexation.

This document which I submit bears the Number RF-701 of the French documentation. It is the first document of the document book which the Tribunal has before it. All the documents in this chapter will bear numbers beginning with the Number 7, that is to say, beginning with RF-701.

This document comes from the file of the French High Court of Justice, and the copy submitted to the Tribunal has been certified by the clerk of this jurisdiction. I should like to quote from this document, beginning with the fourth paragraph on Page 1 of the Document Number RF-701:

"1. Prefects, subprefects, and mayors, as well as a number of local officials whose tendencies were considered suspicious, have been evicted from their respective offices.

"2. Monseigneur Heintz, bishop appointed under the Concordat to Metz, was driven from his diocese. Several members of the clergy, secular as well as regular, were also expelled under the pretext that they were French in tongue and mentality.

"3. Monseigneur Ruch, the bishop appointed under the Concordat to Strasbourg, was forbidden to enter his diocese and, consequently, to resume his ministry.

"4. M. Joseph Bürckel was appointed on 7 August, Gauleiter of Lorraine and M. Robert Wagner, Gauleiter of Alsace. The first of these provinces was attached to the Gau of Saar-Palatinate; the second to the Gau of Baden.

"5. Alsace and Lorraine were incorporated in the civil administration of Germany. The frontier and custom police were then placed on the western limits of these territories.

"6. The railroads were incorporated in the German network.

"7. The post office, telegraph, and telephone administration was taken over by the German postal authorities, who gradually substituted their own personnel for the Alsatian personnel.

"8. The French language was eliminated, not only in administrative life but also from public use.

"9. Names of localities were germanized.

"10. The racial legislation of Germany was introduced into the country; and as a result of this measure, the Jews were expelled as well as nationals which the German authorities considered to be intruders.

"11. Only the Alsatians and Lorrainers who agreed to consider themselves as being of German stock were permitted to return to their homes.

"12. The property of associations of a political character and of Jews was confiscated as well as property acquired after 11 November 1918 by French persons.

"Nothing illustrates better the spirit which animates these measures, in themselves arbitrary, than the words pronounced publicly 16 July at Strasbourg by M. Robert Wagner. Stressing the elimination of all elements of foreign stock or nationality which was taking place, this high official affirmed that the purpose of Germany was to settle once and for all the Alsatian question.

"Such a policy, which could not be the function of subordinate occupational authorities, was equivalent to disguised annexation and is strictly contrary to agreements subscribed to by Germany at Rethondes."

Numerous protests were subsequently lodged by the French Delegation. We have attached to our file a list of these protests; there are 62 of them. This list is found in the book under the Document Number RF-702.

The development of the German policy may now be studied through three series of measures which were carried out. First, a body of measures destined to assure the elimination of what can be called the French complex, that is to say, of everything which can tie an inhabitant of an annexed country to his way of life and to his national tradition. Second, a body of measures destined to impose German standards in all domains of life of the population. Third, the measures of transportation and of colonization. We use here the German terminology.

First, elimination of the French complex.

The elimination of French nationality and of French law resulted automatically from the measures which we shall study relative to the imposition of German standards. I should like to point out particularly, that the Germans tried to fight against all elements of French organization which might have survived the suppression of their national juridical conditions.

At first they proscribed, in an extraordinarily brutal way, the use of the French language. Several regulations were formulated relative to this. I shall cite only the third regulation, bearing the date of 16 August 1940, entitled, "Concerning the Reintroduction of the Mother Tongue." This document is published in the Journal of German Ordinances or Decrees of 1940, *(Verordnungsblatt)* on Page 2. It bears Document Number RF-703. The Tribunal will

find it in the document book after the Document Number 702, which is the list of French protests. I should like to read a large part of this document, which is interesting; and I shall start at the beginning:

"Following the measures undertaken with a view of reintroducing the mother tongue of the Alsatian people, I decree as follows:

"1. Official Language.

"All public services in Alsace, including administration of communes, of corporations within the meaning of civil law, public establishments, churches, and foundations, as well as tribunals, will use exclusively the German language orally and in writing. The Alsatian population will use exclusively its German mother tongue in both oral and written applications to the above establishments.

"2. Christian and Family Names.

"Christian names will be exclusively used in their German form orally and in writing, even when they have been inscribed in the French language on the birth register. As soon as this present decree comes into force, only German Christian names may be inscribed upon the birth register. Alsatians who bear French Christian names, which do not exist in German form, are asked to apply for a change of their Christian names in order to show their attachment to Germanism. The same holds good for French family names."

I shall skip the following sentence and go to Paragraph 4:

"4. It is forbidden to draw up, in the French language, contracts and accounts under private seal of whatever nature they may be. Anything printed on business paper and on forms must be drawn up in the German language. Books and accounts of all business firms, establishments, and companies must be kept in the German language.

"5. Inscriptions in Cemeteries.

"In the future, inscriptions on crosses and on tombstones can be written only in the German language. This provision applies as well to a new inscription as to the renewal of old inscriptions."

These measures were accompanied by a press campaign. Because of the resistance of the population, this campaign was carried on throughout the occupation.

I should like to make one citation of an article which is particularly significant, published in the *Dernières Nouvelles de Strasbourg* on 30 March 1943. This is not introduced as a document; it is a quotation of a published article. When we read such

an article, we think it at first a joke; but we see, subsequently, that it is serious because repressive measures had to be taken against people who sabotaged the German language. I cite:

"Germans greet one another with 'Heil Hitler.' We do not want any more French greetings, which we still hear constantly in a thousand different forms. The elegant salutation 'Bonjour' is not made for these rough Alsatian throats, accustomed to the German tongue since the distant epoch of Osfried von Weissenburg. The Alsatian hurts our ears when he says 'boschurr.' When he says 'Au Revoir,' the French think they are listening to an Arabic word, which sounds like 'arwar.' Sometimes they say 'Adje' (Adieu).

"These phonetic monstrosities which disfigure our beautiful Alsatian-Germanic dialect resemble a thistle in a flower bed. Let us weed them out! They are not worthy of Alsace. Do you believe feminine susceptibility is wounded by saying 'Frau' instead of 'Madame'? We are sure that Alsatians will drop the habit of linguistic whims so that the authorities will not have to use rigorous measures against saboteurs of the German language."

After this attack on the language, the National Socialists attacked music. This is the purpose of a decree of 1 March 1941, signed by Dressler, the Chief of the Department of Public Enlightenment and Propaganda in the Office of the Chief of Civil Administration for Alsace,

This is Document Number RF-704, published in the German Official Journal *(Verordnungsblatt)* Page 170 of the year 1941. I shall simply cite the title of this decree: "Decree Concerning Undesirable and Injurious Music." The first 3 lines are:

"Musical works contrary to the cultural will of National Socialists will be entered on a list of undesirable and injurious music by the Department for Public Enlightenment and Propaganda."

After music, now, we have the question of hairdress. In this regulation the ridiculous constantly disputes supremacy with the odious. I would almost like to ask the Tribunal to pardon me, but, truly, nothing in this is invented by us.

Here is Document Number RF-705. It is a decree of 13 December 1941 published in the Official Bulletin of 1941, Page 744. This Document RF-705 concerns the wearing of French berets (Basque berets) in Alsace. I read only the first paragraph:

"The wearing of French berets (Basque berets) is forbidden in Alsace. Under this prohibition are included all berets which by form or appearance resemble French berets."

I may add that any violation of this decree was punishable by fine or imprisonment.

The leaders also undertook a long struggle against French flags which the inhabitants kept in their houses. I cite as an example Document Number RF-706, a German administrative document which we found in the archives of the Gau Administration of Strasbourg. It is dated 19 February 1941. I read 3 paragraphs of this document.

"The Gauleiter desires that the Alsatian population be recommended by the organization of the Block- and Zellenleiter to rip up the French flags still in possession of the people and to use them in a suitable way for household needs.

"By the 1st of next May no French flag should be in private hands. This goal should be attained in a way by which the Blockleiter are to visit each household and recommend the families to use the flags for household needs. It should also be pointed out that after the 1st of next May corresponding conclusions shall be drawn concerning the attitude of owners if, after this date, French flags are still found in private possession."

The following document is our Document Number RF-707, which is also an administrative memorandum on the same subject, dated Strasbourg, 26 April 1941, of which I should simply like to read the last sentence:

"If, after 1 June 1941, Alsatians are found still to have French flags in their possession, they are to be sent to a concentration camp for one year."

The Nazis feared French influence to such a degree that they even took a special measure to prevent the coming to Alsace of French workers among the laborers brought into this territory for compulsory labor service. This is the purpose of a memorandum of 7 September 1942 of the civil administration in Alsace, which is our Document Number RF-708, also found in the archives of the Gauleitung of Strasbourg. I read the first few lines of this Document Number RF-708.

"Given the general situation of the labor market, the Chief of the Civil Administration in Alsace has decided that foreign labor from all European countries could, in the future, be used in Alsace. There is but one exception, for French and Belgians, who cannot be employed in Alsace...."

The German undertaking against the French sentiment of Alsatians...

THE PRESIDENT: The translation which came through to me came to me as "must." It came through that the foreign workers of

all countries of Europe *must*, in the future, be used. The word is "pouvait." That does not mean "must," does it? It is "pouvait." Does not that mean "could"?

M. FAURE: "Could," according to necessity. The interesting aspect is that those who are French may not work there, even if labor is needed in Alsace.

The German undertaking against the French sentiments of the Alsatians found its complementary aspect in the attempt also to destroy, on the outside, anything which might be an indication of Alsace belonging to the motherland, France. I shall cite one example in relation to this point. This is our Document Number RF-709.

It is a letter of the German Embassy in Paris, 7 May 1941, which is reproduced in a memorandum of the French Delegation, which is found in the archives of the government. I read this Document Number RF-709, which is short:

"The German Embassy has the honor to point out the following to the General Delegation of the French Government in occupied territory:

"The German Embassy has been informed that in a series of reports on a theme concerning the fatherland, a French radio station in the unoccupied territory, on 16 or 17 April 1941, about 2100 hours, is said to have made a broadcast about the village of Brumath.

"As Brumath, near Strasbourg, is in a German language territory, the German Embassy requests that they inform it if such a broadcast was actually made."

There exist numerous claims and protests of this kind, which fortunately have often an anecdotal character. We must now cite two especially serious cases, for they included assault, flagrant violations of sovereignty, and even crime.

The first case concerns the seizure and profanation of the treasure of the Cathedral of Strasbourg. I shall submit, concerning this subject, Document Number RF-710, which is a letter of protest of 14 August 1943 written by General Bérard, President of the French Delegation of the Armistice Commission. I read the beginning of the letter and repeat that the date is 14 August 1943:

"Dear General,

"From the beginning of the war, the treasure of Strasbourg Cathedral and the property of certain parishes of this diocese had been entrusted by Monseigneur Ruch, Bishop of Strasbourg, to the Beaux-Arts Department. This department had put them in a safe place in the castles of Hautefort and of Bourdeilles in Dordogne, where they still were on the date of 20 May 1943.

"The treasure and this property included, in particular, the pontificalia reserved for the exclusive use of the Bishop, several of which were his personal property, the relics of saints, vessels, or objects for the performance of ceremonies.

"After having sought on several occasions—but in vain—to obtain the consent of Monseigneur Ruch, the Ministerial Counsellor Kraft, on 20 May, requested not only the prefect of Dordogne, but also the director of religious matters, for authority to remove the objects deposited. Faced with the refusal of these high officials, he declared that the repatriation to Alsace of the property of the Catholic Church would be entrusted to the Sicherheitspolizei.

"As a result, at dawn on 21 May, the castles of Hautefort and Bourdeilles were opened and occupied by troops, despite the protests of the guardian. The sacred objects were placed in trucks and taken to an unknown destination.

"This seizure, moreover, was extended to consecrated vessels and ceremonial objects and the relics of saints worshipped by the faithful. The seizure of these sacred objects by laymen not legally authorized and the conditions under which the operation was carried out aroused the emotion and unanimous reprobation of the faithful."

Relative to this document I would like to emphasize to the Tribunal one fact which we shall find frequently hereafter, and which is, in our opinion, very important in this Trial. It is the constant interference and collaboration of different or diverse German administrations. Thus, the Tribunal must through this document see that Ministerial Counsellor Kraft, belonging to the civilian service dealing with national education, appeals to the police of the SS to obtain objects which he cannot obtain through his own efforts.

The second case which I would like to cite concerns the University of Strasbourg. From the beginning of the war the University of Strasbourg, which was one of the finest in France, had withdrawn to Clermont-Ferrand to continue its teaching there. After the occupation of Alsace and since this occupation really meant annexation, it was not reinstated in Strasbourg and remained in its city of refuge. The Nazis expressed their great disapproval of this in numerous threatening memoranda.

We would like to submit Document Number RF-711 relative to this. In this document we shall again come across the Ministerial Counsellor, Herbert Kraft, about whom I spoke in the preceding document. The document, which I submit, bears the Document Number RF-711 and is an original signed by Kraft. It was found in

the archives of the German Embassy. In this memorandum, which is dated 4 July 1941, Counsellor Kraft expresses his disappointment at the result of steps which he had undertaken with the Rector of the University of Strasbourg, M. Danjon.

I believe that it is adequate if I read a very short passage of this memorandum in order to show the insolence and the threatening methods which the Germans used, even in the part of France which was not yet occupied. The passage which I am going to read will be the last paragraph on Page 2 of Document Number RF-711. Mr. Kraft relates the end of his conversation with the rector. I cite:

> "I cut off the conversation, rose, and asked him, by chance, whether the decisions of Admiral Darlan did not represent for him an order from his government. As I went out I added, 'I hope that you will be arrested.' He ran after me, made me repeat my remark, and called out, ironically, that this would be a great honor for him."

This document gives an amusing impression, but the matter as a whole was very serious.

The 15th of June 1943 the German Embassy wrote a note which I submit as Document Number RF-712. This document is an extract from the archives of the High Court of Justice, and has been certified by the clerk of that jurisdiction. Here is the text of this Document RF-712. I shall not read the beginning of the document:

> "The German Embassy considers it very desirable to find a solution of the affair of the University of Strasbourg at Clermont-Ferrand.
>
> "We would be happy to learn that no further publication would appear under the heading 'University of Strasbourg' so that new disagreements may not result from publications of that kind.
>
> "The German Embassy has taken note of the fact that the Ministry of National Education will no longer fill vacant professorial chairs.
>
> "Furthermore, it is requested that in the future no examination certificates be awarded under the title 'University of Strasbourg.' "

I must, in concluding this subject of the University of Strasbourg, point out to the Tribunal a fact which is notorious, that is that Thursday, 25 November 1943, the German police took possession of the buildings of the University of Strasbourg in Clermont-Ferrand, arrested the professors and students, screened

them, and deported a great number of persons. During this operation, they even shot at two professors; one was killed and the other seriously wounded.

I will be able to produce a document relative to this; but I think that is not indispensable, since there are no proofs for the Prosecution that these murders were committed under orders which definitely show governmental responsibility.

THE PRESIDENT: M. Faure, did you say that you had or had not got proof of the facts that you have just stated about the seizure of the property of the university?

M. FAURE: I said this, Mr. President: We consider that these facts are facts of public knowledge; but because of the interpretation which was given by the Tribunal, I have considered that it would be better to prove it by a document. As this document was not added to my file at that time, this document will be submitted as an appendix. I am going to read a passage of this document; but I should like to explain that it is not found in its proper place, as I added it to the brief after the statement of the Tribunal the other day on the interpretation of facts of "public knowledge."

THE PRESIDENT: The Court will adjourn now.

Tomorrow being Saturday, the Tribunal will sit from 10 o'clock in the morning until 1 o'clock. We will then adjourn.

DR. KAUFFMANN: It was said that this afternoon there will be a witness. I would like to ask that this testimony be postponed to another day. I believe that we have reached a so-called silent agreement that we shall be notified in advance as to whether there will be witnesses and what the subject of their evidence will be.

I do not know whether there will be cross-examination; but the possibility exists, of course, and pertinent questions can only be put when we know, first of all, who the witness is to be, and secondly, what the subject will be on which the witness is to be cross-examined, perhaps just a clue.

THE PRESIDENT: The Tribunal does not think it is necessary to postpone the evidence of this witness. As a matter of courtesy on the part of the Prosecution, it would be well, perhaps, but the subject matter—not necessarily the name, but the subject matter upon which the witness is to give evidence—should be communicated to the Defense so that they may prepare themselves upon that subject matter for any cross-examination.

I understand that this afternoon you propose to call a witness who will deal with the circumstances in respect to the German occupation of Luxembourg. That is right, is it not?

M. FAURE: Yes, Mr. President.

THE PRESIDENT: Perhaps you will give the defendants' counsel the subject matter upon which they can prepare themselves for cross-examination. I am told that this subject matter has already been communicated to the defendants and is on their bulletin board at the present moment.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: May it please the Court, I desire to announce that the Defendants Kaltenbrunner, Seyss-Inquart, and Streicher will be absent from this afternoon's session on account of illness.

THE PRESIDENT: The question which was raised this morning about certain documents has been investigated, and the Tribunal understands that the documents were placed in the Defense Counsel's Information Center yesterday; but it may be that the misunderstanding arose owing to those documents not having been in any way indexed, and it would, I think, be very helpful to the Defense Counsel if Prosecuting Counsel could, with the documents, deposit also some sort of index which would enable the Defense Counsel to find the documents.

M. FAURE: It is understood that we shall present a table of contents of the documents.

THE PRESIDENT: I think if you could, yes.

M. FAURE: Your Honors, I was speaking this morning of the incident which occurred at the Strasbourg faculty in Clermont-Ferrand, on 25 November 1943. I pointed out to the Tribunal that I shall produce to this effect a document. This document has not been classified in the document book, and I shall ask the Tribunal to accept it as an annex number or as the last document of this book, if that is agreeable.

This is a report of M. Hoeppfner, Dean of the Faculty of Letters, established on 8 January 1946, and transmitted from Lorraine to the French Prosecution. I should like simply to read to the Tribunal, in order not to take up too much of its time, the two passages which constitute the texts which were submitted to it as an appendix.

THE PRESIDENT: Have you got the original document here?

M. FAURE: Yes, Your Honor.

"It is the 25th of November 1943, a Thursday. The 10 o'clock class is drawing to an end. As I come out of the room, a student posted at a window in the hall signals me to approach and shows me in the inner court in front of the Department of Physics a Wehrmacht soldier with helmet, boots, a submachine gun in his arm, mounting guard. 'Let us try to flee.' Too late. At the same moment, wild cries arise from all directions—the corridors, the stairways are filled with the sound of heavy boots, the clanking of weapons, fierce cries, a frantic shuffling. A soldier rushes down the hall shouting, 'Everybody in the courtyard—tell the others.' Naturally, everyone understood."

Second passage:

"One of our people, Paul Collomp, was cold-bloodedly murdered with a shot in the chest, and an eyewitness confirms the fact. Alas, it is only too true. Asked to leave the Secretariat where he was, Collomp no doubt obeyed too slowly to suit the policeman, for the latter gave him a violent blow on the back; instinctively, our colleague turned around, and the other then fired a shot directly into his chest. Death was almost immediate, but the body was left lying there alone until that evening. Another rumor reached us. We didn't know from where. A colleague in Protestant Theology, M. Eppel, was apparently also shot down, in his own house, where they had gone to look for him. He received, as was later learned, several bullet shots in the abdomen but miraculously recovered and even survived the horrors of Buchenwald Camp."

As I indicated to the Tribunal this morning, I wish to say that the Prosecution has no proof that such crimes were due to a German governmental order; but I believe that it is nevertheless interesting to advise the Tribunal of this last episode in the German undertakings against the University of Strasbourg, for the episode constitutes the sequel and, in a sense, the climax of the preceding incidents. We have seen, indeed, that German procedure began at first regularly and that after these regular procedures it reached the stage of recourse to the police. Brutality and violation accompanied this recourse.

I wish to advise you that this document which I have just read bears the Document Number RF-712 (bis).

I come now to the second part of this subject, which is the imposition of German standards. The leaders of the Reich began by organizing a specifically German administration. I already indicated a while ago the appointment of Gauleiter as heads of the civil administration. I continue on this point by producing as Document Number RF-713 the Ordinance of 28 August 1940, *Official Gazette* of the Reich, 1940, Page 22. The Ordinance is entitled: "Concerning the Introduction of the German Regime in Alsace." I shall not read this Ordinance. I simply indicate that its object is to put into effect, from 1 October 1940 on, the German municipal regime of 30 January 1935.

The text and the organization show that the territories annexed were reorganized on the basis of German administrative concepts. At the head of each district (arrondissement) we no longer have a French subprefect but a Landkommissar, who has under his orders the different offices of Finance, Labor, School Inspection, Commerce, and Health. The large towns, the chief towns of arrondissements

and even of cantons, were endowed with a Stadtkommissar instead of, and replacing, the mayors and elected counsellors, who had been eliminated. The judicial offices were attached to the court of appeals in Karlsruhe. The economic departments and, in particular, the chambers of commerce were run by the representatives of the chambers of commerce of Karlsruhe for Alsace and of Saarbrücken for Moselle.

After having germanized the forms of administrative activity, the Germans undertook to germanize the staffs. They nominated numerous German officials to posts of authority. They attempted, moreover, on a number of occasions, to make the officials who had remained in office sign declarations of loyalty to the Germans. These attempts, however, met with a refusal from the officials. They were therefore renewed on a number of occasions in different forms. We have recovered from the archives of the Gauleiter of Strasbourg 8 or 10 different formulas for these declarations of loyalty. I shall produce one of these for the Tribunal, by way of example.

This is Document Number RF-714. It is the formula for the new declaration which the officials are obliged to sign if they wish to retain their positions:

"Name and first name, grade and service, residence.

"I have been employed from ———— 1940 to this date in the public service of the German administration in Alsace. During this period I have had, from my own observation as well as from the Party and the authorities, verbally and in writing, occasion to learn the obligations of a German official and the requirements which are exacted of him from a political and ideological point of view. I approve these obligations and these requirements without reservation and am resolved to be ruled by them in my personal and professional life. I affirm my adherence to the German people and to the National Socialist ideals of Adolf Hitler."

Along with the administration, properly speaking, the Nazis set up in Alsace the parallel administration of the National Socialist Party, as well as that of the Arbeitsfront, which was the sole labor organization.

German currency legislation was introduced in Alsace on 19 October and in Lorraine on 25 October 1940. The Reichsmark became thenceforth the legal means of payment in the annexed territory. The German judicial organization was introduced by a series of successive measures leading up to the decree of 30 September 1941 concerning the simplification of the judicial organization in Alsace. I produce this ordinance as Document Number RF-715, without reading it.

In regard to the teaching system, the German authorities established a series of regulations and ordinances which were aimed at assuring the unification of the Alsatian school system with the German teaching system. I shall simply mention the dates of the principal texts, which we produce as documents, and which are of a public nature, since they were all published in the *Official Gazette* of the Reich in Alsace. Here are the main texts:

Document Number RF-717, regulation of 2 October 1940.

Document Number RF-718, ordinance of 24 March 1941 on elementary teaching in Alsace.

Document Number RF-719, ordinance of 21 April 1941 concerning the allocation of subsidies for education in Alsace.

Document Number RF-720, ordinance of 11 June 1941 on obligatory education in Alsace.

I now quote a series of measures ordering the introduction in Alsace and Lorraine of German civil law, German criminal law, and even procedure. I shall quote as the most important, under Document Number RF-721, the ordinance of 19 June 1941 concerning the application of the provisions of German legislation to Alsatians. I should like to read the first paragraph of Article 1 because it contains an interesting item:

"Article 1:

"1. The legal relationships of persons who acquired French citizenship under the Appendix to Articles 51 to 79 of the Versailles dictate and of those who derive their nationality from those persons, in particular in the domain of personal and family law, are governed by the legislation in force in the former Empire, in accordance with the law of the country of origin, insofar as this legislation applies to the country of origin."

A similar ordinance was drawn up for Lorraine, Document Number RF-722, ordinance of 15 September 1941 concerning the application of German legislation to personal and family status in Lorraine. *Official Bulletin* of the Reich, Page 817.

I should like to quote, indicating the titles and references, the principal measures which have been introduced in penal matters:

Document Number RF-723, notice of 14 February 1941 relative to the penal dispositions declared applicable in Lorraine by virtue of Section 1 of the second ordinance concerning certain transitory measures in the domain of justice.

Document Number RF-724, ordinance of 29 October 1941 relative to the introduction into Alsace of the German legislation of penal procedure and of other penal laws.

Document Number RF-725, ordinance of 30 January 1942 relative to the introduction into Alsace of the German penal code and other penal laws.

I do not wish to read this text which is long, but I should like to draw the attention of the Tribunal to two features which show that the Germans introduced into Alsace the most extraordinary provisions of their penal law, conceived from the point of view of the National Socialist regime. The Tribunal will thus see, in this Document Number RF-725, Page 1 under Number 6 of the enumeration, that the law of 20 December 1934, repressing perfidious attacks directed against the State and the Party and protecting Party uniforms, was introduced into Alsace, as well as the ordinance of 25 November 1939, under Number 11 of the enumeration, completing the penal provisions relating to the protection of the military power of the German people.

As concerns public freedom, the Germans eliminated from the beginning the right of association; and they dissolved all existing associations. They intended to leave free room for the Nazi system, which was to be the only and obligatory association.

I shall quote in the same way a number of documents, with the titles of these public texts:

Document Number RF-726, regulation of 16 August 1940, dissolving the youth organizations in Alsace.

Document Number RF-727, regulation of 22 August 1940, setting up a supervising commission for associations in Lorraine.

Document Number RF-728, regulation of 3 September 1940, providing for the dissolution of teachers' unions. I point out, in regard to this Document RF-728, that the last article provides an exception in favor of the organization called "Union of National Socialist Teachers."

Document Number RF-729, regulation of 3 September 1940, providing for the dissolution of gymnastic societies and of sports associations in Alsace. I should like to read Article 4 of this Document RF-729:

> "My Commissioner of Physical Culture will take, in regard to other gymnastic societies and sports associations in Alsace, all necessary provisions in view of their re-integration into the Reich's National Socialist Union for Physical Culture."

Following up these measures of Germanization, we now encounter two texts which are very characteristic and which I produce as Documents Numbers RF-730 and RF-731. Of Document Number RF-730 I read simply the title, which is significant: "Ordinance of 7 February 1942 Relative to the Creation of an Office of the Upper Rhine for Genealogical Research." I shall likewise read the

title of Document Number RF-731, "Regulation of 17 February 1942 Concerning the Creation of the Department of the Reich Commission for the Strengthening of Germanism."

I indicated a moment ago to the Tribunal that the Party had been established in Alsace and in Lorraine in a way that was parallel with the administration in Germany. I shall produce in this connection Document Number RF-732, which is a confidential note of the National Socialist Workers Party of the province of Baden dated Strasbourg, 5 March 1942. This document belongs likewise to the series found in the files of the Gauleitung of Strasbourg. It bears as a heading, "Gaudirektion—Auxiliary Bureau of Strasbourg." If it please the Tribunal, I shall read the beginning of this document:

"Evaluation of recruiting possibilities of the Party, its subdivisions and related groups in Alsace.

"In the framework of the drive of 19 June organized for the recruiting of party members, the Kreisleiter in collaboration with the Ortsgruppenleiter have to investigate Alsatians above the age of 18, even if their membership is not yet to be obtained within this drive which may be"—the word "which" was omitted in the text—"considered for prospective membership of the Party, its sections, and affiliated organizations and which men between the age of 17 and 48 could be actively employed in the Party or in its subdivisions. In order to gain a numerical survey, these investigations should also comprise all persons already enrolled in the Party, in the Opferring"—this is the collecting organization of the Party—"in the sections, and affiliated organizations.

"The Kreisleiter may call upon the collaboration of the Kreisorganisationsleiter"—these are the organizing directors of the section—"and of the Kreispersonalamtsleiter"—the personnel information offices of the sections—"In spite of this work the 19 June drive for recruiting members should not suffer but must be carried on by all possible means and gain the goal set by the Gauleiter at the given date.

"The results of the screening of the population are to be compiled in five lists, namely: List 1a; List 1b; List 2a; List 2b; Control list."

I shall skip over the following paragraphs, which are rather long and purely administrative, and I shall continue on Page 2 of the document, Paragraph 9:

"Since it is the aim of the National Socialist movement to embrace all Germans in a National Socialist organization in order to mould and direct them in compliance with the intentions of the Movement, 90 percent of the population will have

to figure on Lists 1a and b and 2a and b, while on the Control List only those shall be named who, on account of racial inferiority or asocial or anti-German attitude are considered unworthy of belonging to an organization, are not deemed worthy of membership in Party organizations."

I shall now enter upon the two most serious questions which are directly interconnected, questions which, on the one hand, concern nationality and, on the other hand, military recruiting.

The German policy in the matter of nationality reveals a certain hesitation, which is related to the German policy in regard to military recruiting. Indeed, the German leaders seem to have been swayed by two contradictory trends. One of these trends was that of bestowing the German nationality on a large number of people, in order to impose the corresponding obligation for military service. The other trend was that of conferring nationality only with discrimination. According to this viewpoint it was considered, first of all, that the possession of nationality was an honor and should to some extent constitute a reward when conferred on those who had not previously possessed it. On the other hand, nationality confers on its possessor a certain special quality. In spite of the abolition of all democracy, it gives that person a certain influence in the German community. It should, therefore, be granted only to persons who give guarantees in certain regards, notably that of loyalty; and we know that, from the German point of view, loyalty is not only a matter of mental attitude and choice but that it also applies to certain well-known physical elements, such as those of blood, race, and origin.

These are the two opposed trends in the German policy of conferring nationality. This is how they develop:

At first—and up to the month of August 1942—the Reich, not yet requiring soldiers as urgently as it did later, deferred the introduction of compulsory recruiting. Along with this they also deferred any action to impose German nationality on the population generally. During this earlier period the Nazis did not resort to compulsory recruiting but relied simply on voluntary recruiting which, however, they tried to render more effective by offering all kinds of inducements and exercising pressure in various ways.

I shall not go into details regarding these German procedures for voluntary recruitment. I should like simply to give, by way of example, the subject matter of Document Number RF-733. It is an appeal posted in Alsace on 15 January 1942 and constitutes one of the appendices of the governmental report, which was submitted previously under Document Number UK-72. In this document, I shall read simply the first sentence of the second paragraph:

"Alsatians: Since the beginning of the campaign in the East, hundreds of Alsatians have freely decided to march as volunteers, side by side with the men of the other German regions, against the enemy of civilization and European culture."

For anyone who knows German propaganda and its technique of exaggeration, the term "hundreds" which is used in this document immediately betrays the failure of the Nazi recruiters. "Hundreds" may obviously be translated by "tens," and it must be admitted that this was a very poor supply for the Wehrmacht.

During the period that I am speaking of the Nazis practiced, in regard to nationality, a policy similar to their policy in recruiting military forces, that is, a policy of selective nationalization. They appealed for volunteers for German nationality. It is desirable to quote in this regard an ordinance of 20 January 1942, a general ordinance of the Reich, not a special one for the annexed territories.

This ordinance in its first article increases the possibilities of naturalization, which until then had been extremely limited, in accordance with the Reich statute book. In Article 3 it gives the following provision: (This ordinance is not produced in the document book, for it is an ordinance of the German Reich and, therefore, a public document.)

"The Reich Minister of the Interior may, by means of a general regulation, grant German nationality to categories of foreigners established on a territory placed under the sovereign power of Germany or having their origin in such territory."

In connection with this earlier period it is necessary to stress that natives of Alsace-Lorraine who did not become German citizens did not retain their French nationality. They are all considered as German subjects. They are qualified in the documents of the period as "members of the German community (Volksdeutsch)," and are consequently liable for German labor service. I submit Document Number RF-734 in this connection, "Regulation of 27 August 1942, on Compulsory Military Service and on Labor Service in Alsace." I shall return to this document presently with regard to military service, but I would like to quote now the passages relative to service in the Hitler Youth, one of which bears an earlier date, the ordinance of 2 January 1942 for Alsace and ordinance of 4 August 1942 for Lorraine.

The German policy regarding nationality and military recruiting reaches its turning point in the month of August 1942. At this moment, on account of military difficulties and the need for extensive recruiting, the Germans instituted compulsory military service in Lorraine by an ordinance of 19 August 1942 and in Alsace by an ordinance of 25 August 1942. These two ordinances,

relative to the introduction of compulsory military service, constitute Document Number RF-735, ordinance for Lorraine, and Document Number RF-736, ordinance for Alsace.

At the same time, the Germans promulgated an ordinance of 23 August 1942 on German nationality in Alsace, Lorraine, and Luxembourg. This text is the subject of a circular issued by the Reich Minister of the Interior, which constitutes Document Number RF-737. These provisions are the following:

"Full rights of nationality are acquired by natives of Alsace and Lorraine and Luxembourgers of German origin:

"When they have been or will be called upon to serve in the armed forces of the Reich or in SS armed formations;

"when they are recognized as having acted as good Germans."

As concerns the expression "of German origin," which is used in these texts, this concerns Alsatians and Lorrainers who have become French either through the Treaty of Versailles or subsequently on condition of having previously been German nationals or having transferred their domicile from Alsace or Lorraine to the territory of the Reich after 1 September 1939; and, finally, children, grandchildren, and spouses of the preceding categories of persons are likewise considered as of German origin.

Lastly, it was anticipated that the Alsatians, Lorrainers, and Luxembourgers who did not acquire German nationality absolutely could obtain it provisionally.

I should like to mention, to complete this question of nationality, that an ordinance of 2 February 1943 gave details as to the German nationality laws applicable in Alsace, and that an ordinance of 2 November 1943 likewise conferred German nationality upon persons who had been in concentration camps during the war.

The German texts indicate that, on the one hand, German nationality was imposed upon a great number of persons; and, on the other hand, that Alsatians and Lorrainers who were French were forced to comply with the exorbitant and truly criminal requirements of military service in the German Army against their own country. These military obligations were constantly extended by the calling-up of successive classes, as far as the 1908 class.

These German exigencies provoked a solemn protest on the part of the French National Committee, which in London represented the Free French Government authority. I should like to read to the Tribunal the text of this protest, which is dated 16 September 1942, and which I submit as Exhibit Number RF-739. I shall read only the three paragraphs of the official protest, which constitute

the beginning of this document of the Information Agency in London.

"After having proclaimed, in the course of the war, the annexation of Alsace and of Lorraine, banished and robbed a great number of the inhabitants, and enforced the most rigorous measures of Germanization, the Reich now constrains Alsatians and Lorrainers—declared German by the Reich—to serve in the German armies against their own compatriots and against the allies of France.

"The National Committee, defender of the integrity and of the unity of France and trustee of the principle of the rights of peoples, protests, in the face of the civilized world, against these new crimes committed in contempt of international conventions against the will of populations ardently attached to France. It proclaims inviolable the right of Alsatians and of Lorrainers to remain members of the French family."

This protest could not have been unknown to the Germans, for it was read and commented on over the radio by the French National Commissioner of Justice, Professor René Cassin, on a number of occasions.

In regard to this solemn protest on the part of France, I shall allow myself to quote the justifications, if one may use this term, which were furnished in a speech by Gauleiter Wagner delivered in Colmar on 20 June 1943. This quotation is drawn from the *Mühlhäuser Tageblatt* of 21 June 1943. In view of its importance I shall not deal with it simply as a quotation, but I produce it as a document and submit it as Document Number RF-740. The clerk has been given this paper. I read the explanations of Gauleiter Wagner, as they are reproduced in this newspaper under the title "Alsace will not Stand Aloof":

"The decisive event for Alsace in 1942 was therefore the introduction of compulsory military service. It cannot be my intention to justify legally a measure which strikes so deeply at the life of Alsace. There is no reason for this either. Every decision which the Greater Reich is taking here is motivated and cannot be attacked as to its juridical and its *de facto* form."

Naturally, the Alsatians and Lorrainers refused to accept the criminal orders of the German authorities, and they undertook to avoid these by every means. The Nazis then decided to compel them by means of merciless measures. The frontiers were strictly guarded, and the guards had orders to fire on the numerous recalcitrants who attempted to escape across the border. I should like to quote in this connection a sentence from a newspaper article, which appeared in the *Dernières Nouvelles de Strasbourg*

of 28 August 1942. This is Document Number RF-741. This article deals with the death of one of these men who refused to serve in the German Army, and it concludes with the following sentence: "We insist most particularly on the fact that it is suicidal to attempt to cross the frontier illegally."

Naturally, judicial penalties were applied with great severity and in a large number of cases. I do not consider that I should bring to the Tribunal all the instances of these cases, which would take too long; but I should like simply to insist on the principle that governed this form of repression.

I shall quote first of all a document which is entirely characteristic of the conception which the German administration had of justice and of the independence of judicial power. This is Document Number RF-742. It is a part of a series of documents discovered in the files of the Gauleitung. It is a teletype message dated Strasbourg, 8 June 1944, addressed by Gauleiter Wagner to the Chief of the Court of Appeals in Karlsruhe. I shall read Paragraph 2 of this document, which is on Page 1 of the same document:

> "Especially in Alsace it is required that the sentences for refusal of military service should be intimidating. But upon those trying to evade military service, for fear of personal danger, this intimidating effect can be produced only by the death penalty, the more so, as an Alsatian bent upon escaping military service by emigration counts generally on an early victory of the enemy and, therefore, in case of conviction with punishment other than death, with a near cancellation of the penalty. The death penalty is, therefore, to be applied in all cases in which after 6 June 1944 an evasion of military service is attempted by illegal emigration, irrespectively of any other legal practice used in Germany proper."

But I wish to indicate that the consideration of personal risk, even that of being killed at the frontier or condemned to death, was not sufficient to make the people of Alsace and Lorraine acknowledge the obligation for military service. Thus the Nazis decided to have recourse to the only threat which could be effective, the threat of reprisals against families. After 4 September 1942, there appeared in the *Dernières Nouvelles de Strasbourg* a notice entitled "Severe Sanctions Against Those Who Fail to Appear Before the Revision Council." An extract from this notice constitutes Document Number RF-743. I shall read from it:

> "In the case mentioned above it has been shown that parents have not given proof of authority in this regard. They have thus proved that they do not yet understand the requirements of the present time, which can tolerate in Alsace only reliable

persons. The parents of the above-named young men will therefore shortly be deported to the Altreich in order to re-acquire, in a National Socialist atmosphere, an attitude in conformity with the German spirit."

Thus the deportation of families was decreed, not to punish a definite insubordination, but to punish failure to appear before the recruiting board.

In order to avoid repeated readings, I shall now present to the Tribunal, under the heading of Document Number RF-744, the ordinance of 1 October 1943, to check failure to perform military service *(Official Bulletin* of the Reich for 1943, Page 152). I shall read the first two articles:

"Article 1: The chief of the civil administration in Alsace may deny residence in Alsace to deserters and to persons who fail to fulfill their military obligations or those of the compulsory labor service, as well as to members of their families. This prohibition entails, for persons of German origin whom it may affect, transplantation to Reich territory by the Plenipotentiary for the Reich, Reich Commissioner for the Preservation of German Nationality. Measures to be taken in regard to property, seizure, indemnity, *et cetera,* are prescribed in the ordinance of 2 February 1943, concerning property measures to be applied in the case of persons of German origin transferred from Alsace to Reich territory.

"Paragraph 2: Independently of the preceding measures, criminal proceedings may be instituted under the penal code for violation of the provisions of the penal laws."

THE PRESIDENT: Exactly what did "souche allemande" mean? How far did it go?

M. FAURE: The term "souche allemande" applies, as indicated in connection with the preceding text, to the following categories of persons: In the first place, persons who were in Alsace and Lorraine before the Treaty of Versailles and who became French by the treaty; persons whose nationality before 1919 was German are considered as of German origin, as well as their children, their grandchildren, and their spouses. This affects the great majority of the population of the three departments.

I continue reading Paragraph 2 of the first article of Document Number RF-744.

"Independently of the foregoing measures, penal prosecutions may be brought for violation of the provisions of the penal laws."

According to Article 52, Paragraph 2, of the Reich Penal Code, members of the family who bring proof of their genuine efforts to

prevent or dissuade the fugitive from committing his act or avoiding the necessity of flight shall not be punishable.

These abominable measures, the obligation of denunciation, punishment inflicted upon families, permitted the German authorities to carry out the enlistment of Alsatians and Lorrainers, which for many of them had fatal consequences and which was for all of them a particularly tragic ordeal.

I must finally indicate, to conclude this part, that the Germans proceeded to the mobilization of women for war work. I produce a Document Number RF-745, the ordinance of 26 January 1942, completing the war organization of labor service for the young women of Lorraine.

Then we find an ordinance of 2 February 1943, Document Number RF-746, concerning the declaration of men and women for the accomplishment of tasks pertaining to national defense. (*Official Bulletin* of the Reich, 1943, Page 26.) This ordinance concerns Alsace.

The following Document, Number RF-747, deals with Lorraine. This is an ordinance of 8 February 1943 concerning the enrollment of men and women for tasks relating to the organization of labor. The Tribunal will note that the ordinance concerning Alsace used the expression "tasks of interest to national defense," whereas the ordinance relative to Lorraine specifies simply "tasks concerning the organization of labor"; but in principle these are the same. Article 1 of this second ordinance, Document Number RF-747, refers to the ordinance of the General Delegate for the Organization of Labor, relative to the declaration of men and women for tasks of interest to national defense, *et cetera*. This is a question of making not only men, but also women, work for the German war effort. I shall read for the Tribunal an extract from a newspaper article which comments on this legislation and likewise on the measures which Gauleiter Wagner proposed to undertake in this connection. This constitutes Document Number RF-748, taken from the newspaper *Dernières Nouvelles de Strasbourg*, dated 23 February 1943.

> "In his speech at Karlsruhe Gauleiter Robert Wagner stressed that measures of total mobilization would be applied to Alsace and that the authorities would abstain from any bureaucratic working method. The Alsatian labor offices have already invited the first category of young women liable for mobilization to fill out the enlistment form.
>
> "In principle, all women who until the present have worked only at home, who have had to care only for their husbands, and who have no other relatives, shall work a full day.

Many married men who until now had never offered to help their wives with the household work will be obliged to put their shoulder to the wheel. They will work in the household and do errands. With a little goodwill, everything will work out. Women who have received a professional education shall be put, if possible, to tasks that relate to their professions, on condition that they have an important bearing on the war effort. This prescription applies only to all feminine professions which imply care given to other persons."

Here again a rather comical or clumsily worded presentation should not prevent one from perceiving the odious character of these measures, which obliged French women to work for the German war effort.

THE PRESIDENT: We will adjourn now for ten minutes.

[A recess was taken.]

M. FAURE: Mr. Dodd would like to speak to the Tribunal concerning a question he wishes to put to the Tribunal.

MR. DODD: Mr. President, I ask to be heard briefly to inform the Tribunal that the affiant Andreas Pfaffenberger, whom the Tribunal directed the Prosecution for the United States to locate, if possible, was located yesterday and he is here in Nuremberg today. He is available for the cross-examination which, if I remember correctly, was requested by Counsel for the Defendant Kaltenbrunner.

THE PRESIDENT: Was his affidavit read?

MR. DODD: Yes, Your Honor, it was.

THE PRESIDENT: It was read, and on the condition that he should be brought here for cross-examination?

MR. DODD: Yes, Sir. He asked for him to be brought, if I recall it.

THE PRESIDENT: Does counsel for Kaltenbrunner wish to cross-examine him now—I mean, not this moment—does he still wish to cross-examine him?

DR. KAUFFMANN: I believe that the Defendant Kaltenbrunner does not need the testimony of this witness. However, I would have to take this question up with him once more, for up till today it was not certain that Pfaffenberger would be in court, and if he is to be cross-examined and to testify, I believe Kaltenbrunner would have to be present at the hearing.

THE PRESIDENT: It seems somewhat unfortunate that the witness should be brought here for cross-examination and that then you should be saying that you don't want to cross-examine him after reading the affidavit. It seems to me that the reasonable thing to do would be to make up your mind whether you do, or do not, want to cross-examine him; and I should have thought that would have been done and he would have been brought here, if you want to cross-examine, and not brought here if you did not want to cross-examine. Anyway, as he has been brought here now, it seems to me that if you want to cross-examine him you must do so. Mr. Dodd, can he be kept here for some time?

MR. DODD: He can, Your Honor, except that he was in a concentration camp for 6 years; and we have to keep him here under certain security, and it is somewhat of a hardship on him to be kept too long. We would like not to keep him any longer than necessary. We located him with some difficulty with the help of the United States Forces.

DR. KAUFFMANN: In perhaps 2 or 3 days we might wish to cross-examine; perhaps two or three days.

THE PRESIDENT: I imagine that if after the affidavit had been read that you demanded to cross-examine him and that he has therefore been produced—well, in those circumstances it seems to me unreasonable that you should ask that he should now be kept for 2 or 3 days when he is produced. Mr. Dodd, would it be possible to keep him here until Monday?

MR. DODD: Yes, he can be kept here until Monday.

THE PRESIDENT: We will keep him here until Monday, and you can cross-examine as you wish, Dr. Kauffmann. You understand what I mean; when an affidavit has been put in and one of the Defense Counsel said that he wants to cross-examine, he ought to inform the Prosecution if, after reading and considering the affidavit, he finds that he does not want to cross-examine him; they ought to inform the Prosecution so as to avoid all the cost and trouble of bringing a witness from some distance off. Do you follow?

DR. KAUFFMANN: I will proceed with the cross-examination on Monday.

THE PRESIDENT: Yes.

M. FAURE: Mr. President, I would ask the Tribunal whether they would agree to hear the witness Emil Reuter at this point?

THE PRESIDENT: Very well.

[The witness, Emil Reuter, took the stand.]

What is your name?

EMIL REUTER (Witness): Reuter, Emil.

THE PRESIDENT: Emil Reuter, do you swear to speak without hate or fear, to tell the truth, the whole truth, nothing but the truth?

[The witness repeated the oath in French.]

THE PRESIDENT: Raise the right hand and say, "I swear."

REUTER: I swear.

THE PRESIDENT: You may sit down.

M. FAURE: M. Reuter, you are a lawyer of the Luxembourg Bar?

REUTER: Yes.

M. FAURE: You are President of the Chamber of Deputies of the Grand Duchy of Luxembourg?

REUTER: Yes.

M. FAURE: You had been exercising these functions at the time of the invasion of the Grand Duchy of Luxembourg by the German troops?

REUTER: Yes.

M. FAURE: Can you give us any indication on the fact that the Government of the Reich had, a few days before the invasion of Luxembourg, given to the Government of the Grand Duchy assurances of their peaceful intentions?

REUTER: In August 1939 the German Minister for Luxembourg gave to the Minister of Foreign Affairs of the country a statement according to which the German Reich, in the event of a European war, would respect the independence and neutrality of the country, provided that Luxembourg would not violate its own neutrality. A few days before the invasion, in May 1940, the Germans constructed pontoon bridges over half of the Moselle River which separates the two countries. An explanation from the German Minister in Luxembourg represented such construction of pontoon bridges as landing stages in the interest of navigation. In the general public opinion of the country, these installations were really of a military character.

M. FAURE: Can you tell us about the situation of public authorities in Luxembourg following the departure of Her Royal Highness, the Grand Duchess, and of her government?

REUTER: The continuity of administration in the country was assured by a government commission which possessed the necessary powers bestowed upon it by the competent constitutional authorities. There was, therefore, no lack of authority in the administration.

M. FAURE: Is it not true, however, that the Germans claimed, upon their arrival in that country, that the government had failed

to carry out its functions; and, following the departure of the government, that there was no regular authority in the Grand Duchy of Luxembourg?

REUTER: Yes, such declaration was made by the Ministers of the Reich in Luxembourg before a Parliamentary Commission.

M. FAURE: Do I understand correctly that these statements on the part of the German authorities did not in fact correspond to the truth inasmuch as you have told us that there did exist a higher organism for the administration of the country?

REUTER: This statement did not correspond to the reality. It was obviously aimed at usurping authority.

M. FAURE: M. Reuter, the Germans never proclaimed by law the annexation of Luxembourg. Do you consider that the measures adopted by the Germans in that country were equivalent to annexation?

REUTER: The measures that were taken by the Germans in the Grand Duchy were obviously equivalent to a *de facto* annexation of that country. Shortly after the invasion the leaders of the Reich in Luxembourg stated in public and official speeches that the annexation by law would occur at a time which would be freely selected by the Führer. The proof of this *de facto* annexation is shown in a clear manner by the whole series of ordinances which the Germans published in the Grand Duchy.

M. FAURE: The Germans organized an operation which was called a census in Luxembourg. In the form that was given the inhabitants of Luxembourg to effect the census, there was one question concerning the native or usual language and another question as to the racial background of the individual. Are you prepared to assert that in view of these two questions this census was considered as having the character of a plebiscite, a political character?

REUTER: From the menacing instructions published by the German authorities in connection with this census, the political purpose was obvious; therefore public opinion never envisaged this census except as a sort of attempt to achieve a plebiscite camouflaged as a census, a political operation destined to give a certain justification to the annexation which was to follow.

M. FAURE: The report of the Luxembourg Government does not give any indication of the statistical results of this census, specifically with regard to the political question of which I spoke a moment ago. Would you be kind enough to tell us why these statistical data are not to be found in any document?

REUTER: The complete statistical data have never been collected because after a partial examination of the first results the German

authorities noted that only an infinitesimal fraction of the population had answered the two tricky questions in the German sense. The German authorities then preferred to stop the operation, and the forms distributed in the country for obtaining the answers were never collected.

M. FAURE: Do you remember the date of the census?

REUTER: This census must have taken place in 1942.

M. FAURE: After the census the Germans realized that there was no majority, and not even any considerable part of the population which was desirous of being incorporated into the German Reich. However, did they continue to apply their measures of annexation?

REUTER: Measures tending to Germanization and later to the annexation of the country were continued, and later on they were even reinforced by further new measures.

M. FAURE: Am I to understand, therefore, that during the application of these measures the Germans could not be ignorant of the fact that the Luxembourg population was opposed to them?

REUTER: There can be no doubt at all on this question.

M. FAURE: Can you tell us whether it is correct that the German authorities obliged members of the constabulary force and the police to take an oath of allegiance to the Chancellor of the Reich?

REUTER: Yes. This was forced upon the constabulary corps and the police with very serious threats and punishments. Recalcitrants were usually deported, if I remember rightly, to Sachsenhausen; and on the approach of the Russian Army all or a part of the recalcitrants who were in the camp were shot. There were about 150 of them.

M. FAURE: Can you tell us anything concerning the transfer—I believe the Germans call it "Umsiedlung"—of a certain number of inhabitants and families living in your country?

REUTER: The transplanting was ordered by the German authority of Luxembourg for elements which appeared to be unfit for assimilation or unworthy of, or undesirable for, residence on the frontiers of the Reich.

M. FAURE: Can you indicate the approximate number of people who were victims of this transplanting?

REUTER: There must have been about 7,000 people who were transplanted in this manner, because we found in Luxembourg a list mentioning between 2,800 and 2,900 homes or families.

M. FAURE: These indications are based on knowledge you received as President of the Chamber of Deputies?

REUTER: Not exactly, the list was found in Luxembourg; it is still deposited there and the Office of War Criminals took cognizance of it, like all the judicial authorities in Luxembourg.

M. FAURE: Can you state, M. Reuter, how the people who were transplanted were informed of this measure concerning them, and how much time they had to be ready?

REUTER: In general, the families to be transplanted were not given notice in advance, officially, at least. About 6 o'clock in the morning the Gestapo rang at the door, and they notified those who were selected to be ready for departure within 1 or 2 hours with a minimum of luggage. Then they were taken to the station and put on a train for the camp to which they were at first to be sent.

M. FAURE: Can you tell us whether these measures were applied to people whom you know personally?

REUTER: I know personally a very large number of people who were transplanted, among them members of my own family, a great number of colleagues of the Chamber of Deputies, many members of the Bar, many magistrates, and so forth.

M. FAURE: In addition to these transplantations, were there also deportations to concentration camps? This is another question.

REUTER: Yes, there were deportations to concentration camps which everyone knew about. The number of such deportations in the Grand Duchy may be approximately four thousand.

M. FAURE: M. Reuter, it has been established, through their ordinances, that the German authorities prescribed compulsory military service. I will not ask you, therefore, any question on this particular point. However, I would like to ask you whether you are able to state, approximately, the number of Luxembourg citizens who were enrolled in the German Army.

REUTER: The young people who were incorporated into the German Army by force belonged to 5 classes, beginning with the class of 1920. The number is about eleven thousand to twelve thousand, at least. A certain number of them, I think about one-third, succeeded in avoiding conscription and became refractory. Others later deserted the German Army and fled to other countries.

M. FAURE: Can you indicate the approximate number of Luxembourgers who died as a result of their forced enlistment?

REUTER: At the end of September 1944 we had 2,500 dead. Searches have continued and at present I think we have established the names of at least 3,000.

M. FAURE: The sanctions that had been provided to force the enlistment of the Luxembourgers, were they very severe?

REUTER: These sanctions were extremely severe. First of all, the young people who were refractory were pursued and hunted by the police and by the Gestapo. Then they were brought before various types of Tribunals, in Luxembourg, France, Belgium, or Germany. Their families were deported; the family fortune was generally confiscated. The penalties pronounced by the Tribunals against these young people were very severe. The death penalty was general, or else imprisonment, forced labor, or deportation to concentration camps. Some of them were released later on, but there were some who were shot as hostages after having been released.

M. FAURE: I would like to ask one last question. Do you think it is possible that the measures which constituted a *de facto* annexation of Luxembourg could have been unknown to the persons who belonged to the Reich Government, or to the German High Command?

REUTER: I believe that it is hardly possible that such a situation could have been unknown to the members of the Reich and the supreme military authority. My opinion is based on the following facts: First of all, our young people, when mobilized by force, frequently protested at the time of their arrival in Germany by invoking the fact that they were all of Luxembourg nationality, and that they were the victims of force, so that the military authorities must have been informed of the situation in the Grand Duchy.

In the second place, several Ministers of the Reich—among them, Thierack, Rust, and Ley—visited the Grand Duchy of Luxembourg, and could see for themselves the situation of the country and the reaction of the population; other high political personalities of the Reich, such as Bormann and Sauckel, also paid visits.

Finally there were German decrees and ordinances concerning the denationalization of certain categories of Luxembourg citizens. These ordinances bore the signature of the Minister of the Reich. The executive measures implementing these ordinances were published in the *Official Gazette of the Reich Ministry of the Interior* under the signature of the Minister of Interior Frick with the indication that these instructions were to be communicated to all the superior Reich authorities.

M. FAURE: I thank you. Those are all the questions I have to put to you.

[The American, British and Russian prosecutors had no questions.]

THE PRESIDENT: Is there any member of the defendants' counsel who wishes to ask the witness any questions? *[No response.]* Then M. Faure the witness can retire.

M. FAURE: Mr. President, am I to understand that the witness will not have to remain any longer at the disposal of the Tribunal and he may return to his home?

THE PRESIDENT: Certainly.

[The witness left the stand.]

M. FAURE: I had stopped my presentation at the end of the second part. That is to say, I have examined so far, in the first place, the elimination of the French regime and secondly, the imposition of German rules.

I now come to the third part, which gives measures for transplantation in Alsace-Lorraine. The German authorities applied in these annexed departments characteristic methods for the transport of populations. It so happens that, as the witness from Luxembourg was heard sooner than I had anticipated, the Tribunal is already informed of the aspect which these measures of transplantation assumed in the annexed territories.

The situation which I am about to describe with respect to Alsace and Lorraine is, indeed, analogous to the situation which existed with regard to the Grand Duchy of Luxembourg. The principal purpose of the application of such methods by the Germans was to enable them to colonize by bringing German subjects into the country, who then seized the lands and property of the inhabitants who had been expelled.

A second advantage was the elimination of groups considered especially difficult to assimilate. I should like to quote in this connection—this will be Document Number RF-749—what Gauleiter Wagner stated in a speech given at Saverne, according to the *Dernières Nouvelles de Strasbourg,* of 15 December 1941.

> "Today we must make up our mind. In the moment of our nation's supreme struggle—a struggle in which you, too, must participate—I can only say to anyone who says 'I am a Frenchman!' 'Get the hell out of here! In Germany there is room only for Germans.' "

From the beginning the Germans proceeded, firstly, to the expulsion of individuals or small groups, especially Jews and members of the teaching profession. Moreover, as is shown by a document which I have already cited this morning under Number RF-701 and which was the first general protest made by the French Delegation, under date of 3 September 1940, the Germans authorized the people of Alsace-Lorraine to return to their homes only if they acknowledged themselves to be of German origin. Now the Tribunal will understand that these restrictions upon the return of refugees were in themselves equivalent to expulsion. Mass expulsions began in September 1940. I now submit in this connection Document

Number RF-750; it is again a note from the French Armistice Delegation taken from the files of the High Court of Justice. I shall now read this document, Paragraph 2:

> "Since then it has been brought to the knowledge of the French Government that the German authorities are proceeding to mass expulsions of families in the three eastern departments. Every day French citizens, forced to abandon all their belongings on the spot, are driven into the unoccupied part of France in groups of 800 to 1,000 persons."

It was only the 19th of September. On the 3rd of November the Germans undertook the systematic expulsion of the populations of the Moselle region. This operation was accomplished with extreme perfidy. The Germans, as a matter of fact, gave the Lorrainers of certain localities the choice of either going to eastern Germany or going to France. They gave them only a few hours to make up their minds. Moreover, they sought to promote the belief that such a choice was imposed upon the Lorrainers as a result of an agreement reached with the French authorities.

From the physical point of view, the transport of these people was effected under very difficult conditions. The Lorrainers were allowed to take away only a very small part of their personal belongings and a sum of 2,000 francs, plus 1,000 francs for the children. On 18 November, four trains filled with Lorrainers who had been torn away from their homes were headed for Lyons. The arrival in unoccupied France of these people who had been so sorely tried was for them, nevertheless, an opportunity for nobly manifesting their patriotic sentiments. With regard to the facts which I have presented I place before the Tribunal Document Number RF-751, which is a note of protest on the part of the French Delegation signed by General Doyen, dated 18 November 1940. I shall read excerpts of this Document Number RF-751, beginning with Paragraph 3 of Page 1:

> "France is faced with an act of force which is in formal contradiction to the armistice convention as well as the assurance, recently given, of a desire for collaboration between the two countries. On the contrary, in Article 16, which the German commission had frequently invoked with specific regard to the departments of the East, the armistice convention stipulates the reinstallation of refugees in the regions in which they were domiciled. The creation of new refugees constitutes, therefore, a violation of the armistice convention. France is faced with an unjust act affecting peaceful populations against whom the Reich has nothing to reproach and who, settled for centuries on these territories, have made of them a particularly prosperous region.

"The unexpected decision of the German authorities is likewise an inhuman act. In the very middle of winter, without warning, families have to leave their homes, taking with them only a strict minimum of personal property and a sum of money absolutely insufficient to enable them to live even for a few weeks. Thousands of Frenchmen were thus suddenly hurled into misery without their country—already too heavily tried and surprised by the suddenness and amplitude of the measures adopted without its knowledge—being in a position to assure them, from one day to the next, a normal livelihood. This exodus and the conditions under which it is taking place cause most painful and sorrowful impressions throughout the French nation. The French people are particularly disturbed by the explanations given to the Lorrainers, according to which the French Government was reputed to be the source of their misfortune.

"It is that impression, in fact, which the poster in certain villages, where the population had to choose between leaving for eastern Germany or for Unoccupied France, was intended to convey.

"The poster is appended hereto, but we are not in possession of the text of this poster. That also encouraged the belief that these populations had themselves requested permission to leave following the appeals broadcast by the Bordeaux radio. Even if we admit that such appeals had been made by radio, it should be noted that the Bordeaux radio station is under German control. The good faith of the Lorrainers has been deceived as was shown by their reaction on arrival in the free zone."

In spite of these protests, the expulsions continued. They reached a total of about 70,000 people, augmented by the deportation of Alsatians and Lorrainers to Eastern Germany and to Poland. These deportations were meant to create terror, and they particularly affected the families of men who had rightfully decided to refuse the German demand for forced labor and military service. (I am at present regarding the whole question of a French protest dated 3 September 1942; it is Document Number RF-752).

Since I do not wish to read to the Tribunal texts dealing with an identical subject I submit this document solely to show that this protest was made, and I believe that I can refrain from reading its content.

I shall refer, desiring to give only a short citation, to a document belonging to the American Prosecution. This document bears the Number R-114. It is a memorandum of the minutes of a meeting

which took place between several officials of the SS concerning general directions in regard to the treatment of deported Alsatians.

It will be observed that this document has already been submitted by my American colleagues under Document Number R-114, Exhibit Number USA-314, the French Number RF-753. I merely wish to read one paragraph of that document, which may be interpreted as a supplement to this problem of deportation. I must say that these sentences have not been formally read in Court. The passage that I cite is on Page 2 of the document. At the end of that there is a paragraph which begins with the letter "d":

"For further resettlement are destined:

"Members of the patois group. The Gauleiter would like to keep only those persons in the patois area who by their customs, language, and general attitude testify their adherence to Germany.

"Regarding the cases mentioned under a-d, it is to be noted that the racial problem is to be given foremost consideration, that is, in a way by which racially valuable persons shall be resettled in Germany proper, and the racially inferior in France."

Finally, I should like to read to the Tribunal a few sentences from a newspaper article, which appeared in *Dernières Nouvelles de Strasbourg,* August 31, 1942—we are here dealing with a citation and not a document:

"On the 28th of August the families designated hereafter, of the Arrondissements of Mulhouse and Guebwiller, were deported to the Reich in order that they might recover a trustworthy German outlook in National Socialist surroundings. In several cases the persons involved did not conceal their hostility in that they stirred up sentiments of opposition, spoke French in public in a provocative manner, did not obey the ordinances concerning the education of youth, or in other ways showed a lack of loyalty."

I would now like to indicate to the Tribunal that deportation or transportation entailed also the spoliation of property. This is not merely a fact; for the Germans it is a law. Indeed, there is an ordinance of 28 January 1943, which appeared in the *Official Bulletin* for 1943, Page 40, bearing the title, "Ordinance Concerning the Safeguarding of Property in Lorraine as a Result of Transplantation Measures." I have placed this ordinance before you as Document Number RF-754. I would like to read Article One and the first paragraph of Article Two. I believe that the title itself is a sufficient indication of the contents:

"Article One. The safeguarding of property of people transplanted from Lorraine to the Greater German Reich or to territory placed under the sovereign power of Germany has been entrusted to the transfer services for Lorraine under the Chief of the Administration.

"Article Two. These services are authorized to put in effective safekeeping the property of the Lothringians who have been transplanted in order that such property may be administered, and—insofar as orders may have been given for this—exploited."

This ordinance, therefore, still manifests some scruples of form. The intention is to "safeguard," but we now know what the word "safeguard" means in Nazi terminology. We have already seen what safeguarding meant in the case of works of art and Jewish property. Even here, we have been specifically warned that the term "safeguard" carries with it the right of disposal or exploitation.

Other texts are even more specific or clear.

Here is Document Number RF-755. This is the ordinance of 6 November 1940 pertaining to the declaration of property in Lorraine belonging to the enemies of the people and of the Reich. And on the same subject I shall also submit to you Document Number RF-756, which is the regulation of 13 July 1940 applying to property in Alsace belonging to the enemies of the people and of the Reich. These two texts, one of which applies to Alsace and the other to Lorraine, permit the seizure and confiscation of properties designated as "enemy property." Now, to realize the extent of the property covered by this term, I will read Document 756:

"Any objects and rights of any nature whatsoever, without regard to conditions of title, which are utilized for, or intended for use in, activities hostile to the people of Germany or the Reich will be considered as property belonging to the people and to the Reich.

"Such stipulation shall apply to the entire patrimony:

"(a) of all political parties, as well as of secondary or complementary organizations depending thereon;

"(b) of lodges and similar associations;

"(c) of Jews;

"(d) of Frenchmen who have acquired property in Alsace since 11 November 1918;

"(e) The Chief of the Administration Department and the Police will decide what patrimony in addition to the property mentioned above is likewise to be considered as property belonging to the enemies of the people and of the Reich. He will likewise decide on doubtful cases."

We see, therefore, that in spite of the title, we are not dealing here with the measures of sequestration of enemy property taken in all countries within the scope of the laws of war. First of all, these are measures of definite confiscation; and in addition, they are applied to the property of numerous individuals who are in no wise subjects of enemy countries. We also see at this point the absolutely arbitrary power placed in the hands of the administration.

These texts are accompanied by many regulations; although the spoliations are particularly important in Alsace and in Lorraine, I shall not speak of them here in more detail, as the Prosecution has already dealt with the subject. I shall merely limit myself to the mentioning of two institutions special to Alsace and to Lorraine, that is, agricultural colonization, and industrial colonization.

In the first place, agricultural colonization is not a term that has been invented by the Prosecution; it is an expression which the Germans used. I submit in this connection, Document Number RF-757, which is the ordinance of 7 December 1940, "Pertaining to the New Regime of Settlement or Colonization in Lorraine." I shall read the beginning of this Document Number RF-757:

> "Real estate which has been vacated in Lorraine as a result of deportations will serve principally for the reconstitution of a German peasant class and for the requirements of internal colonization. In this connection and specifically in order to set us the required programs, I order, by virtue of the powers which have been conferred upon me by the Führer, the following:
>
> "Article One. Real estate property of individuals deported from Lorraine shall be seized and confiscated for the benefit of the Chief of the Civil Administration."

I will not cite the second paragraph of Article One, but I will cite Article Two:

> "Agricultural properties or forest properties which are seized in consequence of the ordinance concerning enemy property of the people and the Reich in Lorraine are confiscated. Insofar as they are needed, they are included in the methodical organization of the region."

Article Three:

> "In addition to the cases provided for in Articles One and Two and according to the needs, other real estate property may be included in the programs for methodical reorganization if appropriate compensation is provided for.
>
> "The Chief of the Civilian Administration and the services designated by him will decide upon the amount and nature of the compensation. Any recourse to the law on the part of the person involved is forbidden."

Thus the Tribunal can see in a striking manner the processes and the methods pursued by the German authorities.

The first ordinance, cited earlier, spoke only of safeguarding the property of people who had been deported or displaced. A second ordinance now speaks of confiscations. It still refers only to the notion of enemies of the people and of the Reich.

The third ordinance is more complete, since it comprises confiscation prescriptions which are quite formal in their character, and which are no longer qualified as "safeguarding" property which has become vacant as the result of deportations.

This agricultural colonization of which I have spoken assumed a special importance in Lorraine. On the other hand, it is in Alsace that we find the greatest number of measures involving a veritable industrial colonization. These measures consisted in stripping the French industrial enterprises for the benefit of German firms. On this subject there are protests of the French Delegation to the Armistice Commission.

I submit as documents three of these protests, Documents Numbers RF-758, 759 and 760, which are notes under date of—respectively—27 April 1941, 9 May 1941, and 8 April 1943. I believe that it is preferable for me not to read these documents to the Tribunal and that I merely ask the Tribunal to take judicial notice of them, as proof of the existence of these protests, because I fear that such a reading would be a mere repetition to the Tribunal, to whom the matter of economic spoliation has already been explained in sufficient detail.

I shall say, finally, that the Germans carried their audacity to the point of demanding the seizure in Unoccupied France and the transportation to Alsace of assets belonging to French companies which were by this means stripped of their property and actually "colonized." I am speaking of assets belonging to companies in the other zone of France, under the control of the regular shareholders of such companies.

I think it is worth while considering just one example of such procedure, contained in a very short document, which I submit to you under Document Number RF-761. This document appears in the Archives of the French Agencies of the Armistice Commission, to which it had been sent by the director of the company mentioned in the document. It is a paper which is partly written in German and partly translated into French—in the same document—and it is signed by the German Commissioner for a French enterprise called the Société Alsacienne et Lorraine d'Electricité. In Alsace this enterprise had been placed illegally under the administration of this commissioner, and the commissioner—as the document will show—had come to Paris to seize the remainder of the company's assets.

He drafted this document, which he signed and which he also made the president of the French company sign. This document is of interest as revealing the insolence of German procedure and also the Germans' odd conception of law. I quote now:

"Today the undersigned has instructed me that in future I am strictly forbidden to take legal action with regard to the property of the former Société Alsacienne et Lorraine d'Electricité. If I should transgress this order in any way, I know that I shall be punished.

"Paris, 10 March 1941.

"Signed: Kucka.

"F. B. Kommissar.

"Signed: Garnier."

Now this German economic colonization in the areas annexed was to serve as an experiment for the application of similar methods on a broader scale.

There will be submitted to the Tribunal, in this connection, a document concerning a colonization attempt in the French Department Ardennes. On this procedure of annexation by the Germans of Alsace and of Lorraine, many other items could be cited; and I could submit many more documents—even if I were to deal only with the circumstances and the documents which are useful from the point of view of our own Prosecution.

I want to limit myself in order to save the time of the Tribunal and to comply with the necessities of this Trial where so many items have to be discussed. Therefore I have limited myself to the submission of documents or to examples which are particularly characteristic. I believe that this documentation will enable the Tribunal to appraise the criminality of the German undertakings which I have brought to its attention—criminality which is particularly characteristic of military conscription, which is a criminal offence since it entails deaths. At the same time I believe the Tribunal can evaluate the grave sufferings that were imposed for five years on the populace of these French provinces, already so sorely tried, in the course of history.

I have submitted a few details which may have seemed ridiculous or facetious; but I did so because I thought it desirable that one should visualize the oppression exercised by the German Administration in all circumstances of life—even in private life—that general oppression characterized by the attempt to destroy and annihilate, and extended in a most complete manner over the departments and regions which were annexed.

I believe that the Tribunal will possibly prefer me to leave until tomorrow my comments with respect to the Grand Duchy of Luxembourg.

I would like, moreover, to have the Tribunal's assent concerning a question of testimony. I should like to put a witness on the stand, but it is only a little while ago that I gave the Tribunal a letter concerning this request. May I ask to be excused for not having done so earlier because there has been some uncertainty on this point.

If the Tribunal finds it convenient, I should like to have this witness here at tomorrow, Saturday morning's session. I state that this witness would be Mr. Koos Vorrink, who is of Dutch nationality. I also wish to say, for the benefit of Defense, that the question I would like to submit to the witness will deal with certain items concerning Germanization in the Netherlands.

THE PRESIDENT: Do you wish to call him tomorrow?

M. FAURE: If that is convenient to the Tribunal.

THE PRESIDENT: Yes, certainly, call him tomorrow.

M. FAURE: If it please the Tribunal, his testimony could be taken after the recess tomorrow morning.

DR. GUSTAV STEINBAUER (Counsel for Defendant Seyss-Inquart): Mr. President, I do not wish to prolong the proceedings; but I believe it will be in the interest of justice if I ask that the Dutch witness be heard, not tomorrow but Monday, on the assumption that Seyss-Inquart who is now ill may be expected back on that date.

THE PRESIDENT: M. Faure, would it be equally convenient to you to call him on Monday?

M. FAURE: Mr. President, I do not desire to vex the Defense; but the witness might like to leave Nuremberg fairly promptly. Perhaps I might suggest that he be heard tomorrow and that after he has been heard, if Counsel for Defendant Seyss-Inquart expresses his desire to cross-examine him, the witness could remain until Monday's session.

If, on the other hand, after having heard the questions involved, the Counsel considers that there is no need for any cross-examination, then Seyss-Inquart's absence would not matter. But I will naturally accept the decision of the Tribunal.

THE PRESIDENT: That seems a very reasonable suggestion.

DR. STEINBAUER: I am agreeable to the suggestion of the French Prosecutor.

THE PRESIDENT: We will adjourn now.

[The Tribunal adjourned until 2 February 1946 at 1000 hours.]

FORTY-NINTH DAY

Saturday, 2 February 1946

Morning Session

MARSHAL: May it please the Court, I desire to announce that the Defendants Kaltenbrunner, Seyss-Inquart, and Streicher will be absent from this morning's session due to illness.

M. FAURE: Gentlemen, I shall ask the Tribunal to be kind enough now to take the file which is entitled "Luxembourg."

The Tribunal has already been informed of the essential elements of the situation concerning Luxembourg by the testimony of President Reuter, who was heard during yesterday's session. I shall, therefore, be able to shorten my explanations about this file; but it is nevertheless indispensable that I submit some documents to the Tribunal.

The annexation of Luxembourg has quite a special character, in that it carried with it the total abolition of the sovereignty of this occupied country. It therefore concerns a case which corresponds to the hypothesis which we call "*debellatio*" in classic law, that is to say, the cessation of hostilities by the disappearance of the body of public law of one of the belligerents.

This total annexation of Luxembourg completes the proof that there was criminal premeditation on the part of the Reich against this State to which it was bound by diplomatic treaties, notably the Treaty of London of 11 May 1867, and the Treaty of Arbitration and Conciliation of 2 September 1929. And the Tribunal knows by the testimony of Mr. Reuter that these pledges were confirmed, first by a spontaneous diplomatic step taken on 26 August 1939 by M. Von Radowitz, the Minister Plenipotentiary for Germany, and afterwards by a re-assuring declaration a few days before the invasion, in circumstances which have already been explained to the Tribunal.

In view of the fact that Luxembourg—unlike Alsace and Lorraine, which were French departments—I say, in view of the fact that Luxembourg was a state, the Germans, in order to carry out this *de facto* annexation, had to issue special regulations concerning the suppression of public institutions; and this they did. Two ordinances of 23 August and 22 October 1940 announced, on the one hand, the ban on Luxembourg's political parties; and, on the other, the dissolution of the Chamber of Deputies and the State Council.

These two decrees are submitted as Documents RF-801 and RF-802. I request the Tribunal only to take judicial notice of these documents which are public texts

Moreover, from 26 August 1940 on, a German decree had abolished the constitutional executive formula, according to which justice is rendered in the name of the sovereign. A formula, according to which justice is rendered in the name of the people, was substituted at that time for this executive formula. On 15 October 1941, the formula was again modified in a more obvious way and became "In the name of the German people."

I shall now follow in my supplementary explanation the order of ideas which I adopted for Alsace and Lorraine; and naturally I shall dwell only on those circumstances peculiar to Luxembourg.

As in the case of Alsace and Lorraine, the Germans attempted to extirpate the national sentiment of Luxembourg and to render impossible all manifestations of the traditional culture of this country. Thus, the ordinances of 28 August 1940 and 23 October 1940 banned all associations of a cultural or educational nature.

As in Alsace and Lorraine, the Germans imposed Germanization of family and Christian names. This was the object of a decree of 31 January 1941, Document Number RF-803. I point out, in passing, that the wearing of a beret was also forbidden in Luxembourg, by a decree of 14 February 1941. At the same time they did away with national institutions, the Germans set up, according to their custom, their own administration and appointed a Gauleiter in the person of Gustav Simon, the former Gauleiter of Koblenz-Trier.

From the administrative point of view, the Grand Duchy of Luxembourg was administered as a Bezirk (district) of the Chief of the Civilian Administrative Service but by the German administrative services. As far as the Party was concerned—the National Socialist Party—it was officially joined to the Reich, as a dependency of the Mosel Gau.

I shall not dwell on the introduction of German civilian and penal legislation, which was introduced in the same way as in Alsace and Lorraine. Sufficient proof of this must be considered to have been given by the submission of the official report of the government of the Grand Duchy.

As regards nationality and conscription, we also notice a parallelism between the provisions which concern Luxembourg and those which concern other annexed countries.

On 30 August 1942, two ordinances were promulgated. It must be pointed out that these two ordinances, the one concerning nationality and the other military service, bear the same date. The ordinance concerning military service is submitted as Document

Number RF-804 and the one concerning nationality is submitted as Document Number RF-805. The legislation concerning nationality includes, moreover, a provision which is peculiar to Luxembourg, although it is in conformity with the general spirit of German legislation concerning nationality in annexed countries.

The Germans had created in Luxembourg various organizations of the Nazi type, of which the main one was the Volksdeutsche Bewegung (German nationalist movement); and here is the special circumstance which I wish to point out. The ordinance of 30 August 1942 concerning nationality grants German nationality to persons who gave their adherence to this association, the Volksdeutsche Bewegung. But this nationality could be revoked. This is shown in the last paragraph of title 1 of this ordinance, Document Number RF-805. In fact, this conferring of nationality in this special case was valid provisionally for 2 years only.

At the same time that the Nazis were establishing conscription, they made it obligatory for all young Luxembourgers to serve in the premilitary formations of the Hitler Youth. This is laid down in an ordinance of 25 August 1942 concerning the Hitler Youth camps, which is Document Number RF-806.

Just as in Alsace and Lorraine, compulsory labor was imposed in Luxembourg, not only for men but also for women and for work of military concern. These provisions are found chiefly in three ordinances: the ordinance of 23 May 1941, the ordinance of 10 February 1943, and the ordinance of 12 February 1943. These last two ordinances are introduced as Documents RF-807 and RF-808.

I should now like to cite another circumstance, which is peculiar to Luxembourg and of which proof is found in the official report of the Luxembourg Government already submitted to the Tribunal. According to this report, Page 4, Paragraphs 7 to 8, it is stipulated—the quotation is very short and I did put the whole of the Luxembourg report in my document book; I shall cite only one sentence which bears the reference I have given:

> "By ordinance, which appeared in the Official Gazette for Luxembourg, 1942, Page 232, part of the Luxembourg population was forced to join the formations of a corps called Sicherheits- und Hilfsdienst (Security and Emergency Service), a premilitary formation which had to do military drills. Part of it was sent forcibly to Germany to carry out very dangerous tasks at the time of the air attacks of the Allied forces."

The Nazis made a special effort to bring about the nazification of Luxembourg; and for this country they thought out a special method, the basic point of which was the language element. They developed the official thesis that the Grand Duchy of Luxembourg belonged to the German language group. By means of propaganda

they spread the idea that the dialect spoken in Luxembourg was a Franconian dialect of the Moselle and constituted a variant of the High German. Having developed this theory, they took a census of the population, as mentioned yesterday by the witness who gave evidence before the Tribunal. I especially mention that this census took place on 10 October 1941. I wished to have the witness speak on this point because no information on the result of the census was furnished in the government report; and the Tribunal knows now the reason why the German authorities immediately stopped the census as soon as they discovered that the number of persons answering in the way they desired was ridiculously small.

After this failure the Germans considered that the Luxembourg dialect was no longer their political friend and in a circular dated 13 January 1942, which I submit as Document Number RF-809, they forbade the civil servants to use this dialect in conversations with the public or on the telephone. This was very inconvenient to a great many people.

The nazification campaign was carried out also by the creation of groups with the same end in view. I have already said that the most important of these groups was the Volksdeutsche Bewegung and I shall merely supplement this by citing a sentence from the Luxembourg report, namely:

> "Membership in the Volksdeutsche Bewegung was the condition *sine qua non* on which civil servants were allowed to keep their positions, private employees their positions, professional people—such as lawyers, doctors, *et cetera*—to exercise their profession, industrialists to run their factories, and everybody to earn his livelihood. Failure to comply meant dismissal, expulsion from the country, and the deportation of whole families."

The penalties imposed on the Luxembourgers who refused these solicitations were accompanied by a formula which shows very well the Nazi mentality and which I shall read to the Tribunal from the text of the government report. It is a very short quotation.

> "Because of their attitude these persons do not offer the guarantee that they will fulfill, in an exemplary manner at all times and without any reservation, during and outside their professional activity, the duties which have their foundation in the establishment of the civil administration in Luxembourg and in the pro-German attitude."

The Nazis also sought to develop in Luxembourg the SA formation.

THE PRESIDENT: Have we got this report? Has this governmental report been deposited?

M. FAURE: The report of the Luxembourg Government was submitted to the Tribunal by my colleague, M. Dubost.

THE PRESIDENT: Thank you.

M. FAURE: As I am making only very short quotations from it I did not put it in my document book.

THE PRESIDENT: Yes, M. Faure, it would help me if you would give me the page of the dossier, when you are citing a document which is not in the document book.

M. FAURE: The Nazis also used all kinds of constraint to obtain members for their SA formation as well as for the motorized group of the SA which is known under the initials NSKK.

I would like now to point out to the Tribunal that a special effort was directed towards the youth, because the Nazis thought it would be easier to get young people—and I may say, even children—to accept their precepts and doctrines.

I think I may submit to the Tribunal Document Number RF-810, which is a circular dated 22 May 1941, addressed to the principals of high schools. This is a very short document and I ask your permission to read it.

> "By order of the Gauleiter, all teachers are bound to buy the book of the Führer, *Mein Kampf*, before 1 June 1941. By September 1941 every member of the teaching profession must make a declaration on his honor that he has read this work."

The Germans thought that the compulsory reading of *Mein Kampf*—they allowed three months to assimilate this important work—might convince the teachers, who in turn would teach it to their pupils in the prescribed spirit.

I have here another document, Number RF-811, which I should like to read to the Tribunal, because it is not long and is also very characteristic. It is an extract from a collection of circulars addressed to the pupils of the Athenaeum:

> "Luxembourg, 16 June 1941:
>
> "1. All pupils must stand up when the teacher enters to begin the lesson and when leaving the classroom at the end of the lesson.
>
> "2. The German salute will be given in the following manner: a) Raise the outstretched right arm to shoulder level. b) Shout: 'Heil Hitler.'
>
> "3. The pupils must return the same salute which the teachers use at the beginning and end of the lessons.

"4. I also expect all pupils to give the German salute in the street, especially to those gentlemen known to be enthusiastic partisans of the German salute."

These German methods reached their culminating point with the imposition of the oath of allegiance to Hitler, which oath was imposed upon the gendarmes and the police. I refer here to the testimony of M. Reuter, who made the terrible statement that those who refused to do so were deported and afterwards most of them were shot. I also submit as proof of this the government report which gives the same information, on Page 12.

Naturally, as in the other annexed territories, the Luxembourgers did not yield to these German methods; and there also endeavors were made to break the resistance by terror. I must mention a quite special regulation, the ordinance of 2 June 1941. This will be Document Number RF-812, which has as title "Ordinance on the Putting into Force in Luxembourg of the Law of 10 February 1936 Concerning the Gestapo." This title suffices to show the subject.

The Gestapo established in Luxembourg special tribunals, a special summary court known as Standgericht, and SS tribunals. These jurisdictions, if we can use the term jurisdiction, passed many sentences for political reasons. A detailed list of these convictions is appended to the government report. One tribunal, the Standgericht of which I spoke just now, passed 16 death sentences and sentenced 384 people to penalties involving loss of their liberty. But this tribunal was not the only one, and the report states—and the witnesses also confirmed it—that about 500 were condemned to death in this country, which is a considerable number, because the population is not very large.

I think I should likewise mention, in connection with the Germanization, the measures concerning deportation already known to the Tribunal through the testimony of M. Reuter. These measures concerning deportation were applied systematically to the intellectual elite of the country, to the clergy, and to persons who had served in the army. This proves that it was deliberately intended to do away with the social, intellectual, and moral structure of this country.

To the Luxembourg report is appended a list of names of deportees, including officers, magistrates, men who took part in politics in the Grand Duchy, writers, economic leaders, and in particular—I shall give only one figure which is striking—the Germans expelled or deported 75 clergymen, which, with regard to a population as small as that of Luxembourg, shows clearly the will to abolish completely the right to worship. The official report also states that the property of religious orders was confiscated, and most of the places of worship were either destroyed or desecrated.

Just a word about agricultural colonization: An organization called "Für Deutsches Volkstum und Siedelung" (For the Settlement of Racial Germans) was entrusted with the liquidation of the property of Luxembourg deportees for the benefit of southern Tyroleans who were settled in the Grand Duchy. Also, industrial and economic colonization: Here we find the same methods, the same spoliations, and therefore I do not want to go over this ground again. The Tribunal already knows the way in which this was carried out. But I should like to give one example concerning Luxembourg because when dealing with points, even general points, I think the best method is to give a documentary example, and also because, from this document that I am going to cite, I think it is possible to draw some important conclusions from the point of view of the Prosecution.

The document which I am going to cite concerns many cases where the German authorities compelled private citizens and firms to transfer their assets and the control of their businesses to Germans. That was called colonization, and consisted in putting German nationals into the businesses with large assets and economic functions. The Reich Minister of Economy himself devised these illicit methods by which it was intended to plunder private citizens and to germanize the economy of the country. The document that I am going to read to the Tribunal bears the Document Number 813. It is offered as a document by the Luxembourg Government, and it is an original document with the signature, bearing the heading "The Reich Minister of Economy," Berlin, 5 January 1942. This letter with the heading "The Minister of Reich Economy" is signed "By order: Dr. Saager." He is a subordinate who is acting regularly, administratively, by order of his minister. It is Number RF-813, the last but one. This letter is marked "Secret." It concerns the "Accumulateurs Tudor, S. A., Bruxelles," and is addressed to the battery factory in the hands of Mr. Von Holtzendorff of Berlin, Askanischer Platz 3. The Tribunal will understand that the Minister of Economy is writing to the German firm which is going to benefit by the pressure to be exercised on the Luxembourg firm.

> "Referring to our repeated conversations I confirm that in the interest of the Reich it would be considered very desirable if your company would obtain a participation in the stock of the Tudor Batteries. The interest of the Reich is based in no small degree on economic requirements of national defense.
>
> "In order to obtain a majority the stock owned by M. Leon Laval, formerly in Luxembourg and now in Bad Mergentheim, would have to be considered first. This concerns not only the shares which M. Laval possesses personally, but also the 3,000 shares deposited with Sogeco."

I now come to a very important paragraph:

"I therefore request that the necessary negotiations be started immediately. I would point out that, first of all, you will have to apply to the Gestapo for the authorization of the State Police to negotiate with M. Laval, and then request them to give their agreement to the transfer of these shares to your company in case M. Laval should be willing to cede them.

"I have already informed the Gestapo of the matter. If the result of your negotiations should make it necessary I am prepared to point out once again to the Gestapo how urgent your mission is."

Now I should like to read to the Tribunal the sequel to this, Document Number RF-814, which shows a further stage of the maneuver by which the Reich Minister of Economy, in conjunction with the Gestapo, sought to plunder a private citizen. This is a letter addressed to a private citizen, who was going to be compelled to sell his shares, Dr. Engineer Léon Laval, and we are going to see who writes to him. Here is the text of this letter, which is dated Luxembourg, 14 January 1942, and which bears the heading of the Einsatzkommando of the Security Police and the SD in Luxembourg:

"On 19 January 1942 and the following days you must remain at your residence to be at the disposal of the representative of the Accumulatoren-Fabrik, A.G., Berlin, Director Von Holtzendorff."

The Tribunal will recognize the name of Von Holtzendorff, who was the recipient of the letter from the Reich Minister of Economy in the previous document. I continue the quotation:

"Mr. Von Holtzendorff, who is in possession of a special authorization from the Reichssicherheitshauptamt, will discuss business matters with you. Heil Hitler! Signed, Hartmann."

The Tribunal will understand, I am sure, that if I have read these two documents, it is not because I think it very important in the scope of this Trial that the Tudor battery firm was despoiled, an illicit act which was to their prejudice; but I want especially, and I think it is very important in the Trial, to emphasize—and I shall do it each time when the document gives me the opportunity—the co-ordination which existed between the different German services of which these defendants here were the leaders. Certain persons are sometimes inclined to believe that all the German crimes must be imputed to the Gestapo, and it is true that the Gestapo was a characteristic criminal organization; but the Gestapo did not function all by itself. The Gestapo acted on the order of, and in conjunction with, the civil administrations and with the military command. We heard yesterday, in connection with the pontificals of the Bishopric of Strasbourg and also in connection with the

University of Strasbourg, of the scheme which allowed the civil minister or his representative to have recourse to the police agents for the enforcement of orders. We also noted this fact when reading these documents which dealt with economic matters.

I now conclude the first chapter of my brief. I should like to mention that the work on the documentation and the preparation of this chapter was carried out with the aid of my assistant, M. Albert Lentin.

I should like now to hand to the Tribunal the first part of the second chapter, concerning the seizure of sovereignty. This first part includes general ideas which I think I should expound to the Tribunal before supporting them by documents. Consequently, the Tribunal will have before them a file entitled "Exposé" for which there is no corresponding document book.

The Germans occupied the territories of five powers, without counting Luxembourg which was annexed and of which I spoke just now. Of these five countries, three kept governmental authority. These are Denmark, Norway, and France, but even in these three countries the cases are entirely different. The government of Denmark was a legitimate government; the government of France was a *de facto* government, which at the beginning exercised real authority over unoccupied territories; the government of Norway was also a *de facto* government, typical example of a puppet government. The two other powers, Belgium and Holland, retained no governmental authority but only administrative authorities, of which the highest were the general secretariats of the ministerial departments.

In view of these situations, the Germans, as I said previously, varied their methods of domination. On the other hand, they did not establish a specific form of government corresponding to the internal organization of each country; therefore looking at it as a whole, it would seem at first sight to be somewhat complex. The usurpation of sovereignty by the occupying power assumed three different forms. We are speaking here of the external procedure.

First form: Direct exercise of power to legislate or issue regulations. By this we mean the exercise of power above and beyond the limited power to issue regulations accorded by international law to occupation armies.

Second form: The indirect exercise of power to legislate or issue regulations through local authorities. This was also done in two ways: 1. By injunction, pure and simple, which is the case when the local authorities are the administrative authorities. 2. By pressure, which is the case when the local authorities are authorities of a governmental character, either *de facto* or *de jure*. It should be noted, moreover, that the pressure is sometimes such that it bears a complete resemblance to an injunction, pure and simple. We also

understand such pressure to include recourse to the complicity of traitors.

Third form: The third form is purely and simply that of assault and battery. We do not mean physical force used in individual cases, for this does not concern us here: but physical force used as a result of the order of a competent occupation authority, which consequently entails the responsibility of a superior.

If we now consider the question of determining who or what the instruments of usurpation were, we observe that these instruments fall into five categories:

In the first place, we have the Reich Commissioner, who was appointed in Norway and Holland only, that is to say, in the one case in a country which retained governmental authority at least in appearance and for a certain length of time, and in the other, in a country which retained administrative authority only.

In the second place, we have the military administration. In all countries the military authorities exercised powers absolutely disproportionate to those which belonged to them lawfully.

I must note here that only these two instruments, the Reich Commissioner and the military authority, were able to carry out usurpation by issuing direct legislative or regulatory decrees. In each of the two powers where there was a Reich Commissioner, the powers conferred were naturally shared by the Reich Commissioner and the military authority.

A third instrument of usurpation took the form of diplomatic administration responsible to the Foreign Office. Diplomatic representations existed only in countries which had governmental authorities and where there was no Reich Commissioner. We refer to Denmark and France.

These diplomatic representatives of the Reich, unlike the Reich Commissioner and the military occupation authority, did not have power—illicit but formal power—to legislate or issue regulations. However, this does not mean that their role in the usurpation of sovereignty is a secondary one. On the contrary, it is an important one. Their principal activity consisted, naturally, in bringing pressure to bear on local authorities to whom they were accredited.

I should like to bring out two points here. It might be thought from a logical point of view, that in an occupied country such as France, the intervention by the occupying power in the administration of the local authorities would be the exclusive competence of the diplomatic representatives. That is not the case. The military authority also intervened on frequent occasions through direct contact with the French authorities. In their turn, the diplomatic representatives did not limit themselves to the powers conferred

by their functions. One of the characteristics of the Nazi method is this exceeding of powers conferred. It is, moreover, when one thinks of it, a necessary result of the Nazi enterprise.

In view of the fact that the usurpation of sovereignty in a country which is militarily occupied is an illegal and abnormal thing, it does not come within the normal competency of the categories of public functions as understood by civilized nations. Thus the diplomats, as well as the military authorities, exceeded their powers; and there was also an overlapping of functions. The diplomats and the military authorities dealt with the same things. We see this in regard to propaganda, for instance; and in regard to the persecution of the Jews. Generally speaking, the military authority acted in a more obvious way; the diplomatic administration preferred to act in domains where publicity could be evaded. There was a constant liaison between them on all questions concerning the occupied country.

The fourth instrument of usurpation was the police administration. The German police was installed in all occupied countries, often under several distinct administrations, according to the principles which were presented to the Tribunal when the American Prosecution revealed the inner workings of the immense, complex, and terrible police organism of the Nazis. Neither did the police have limited or exclusive functions. They acted in close and constant liaison with the other instruments we have defined.

The fifth instrument which we must mention consisted of the local branches of the National Socialist Party and the similarly inspired organizations which sought to organize nationals in the occupied country. These organizations served as auxiliaries to the German authorities; and in a specific case, that of Norway, they provided the foundation of a so-called government.

I have thought fit to outline this picture, as it seems to me that the Prosecution may draw from it an interesting conclusion in regard to the points I have already touched on in my statement on Luxembourg.

We have seen, in effect, that the German line of policy for the usurping of sovereignty was carried out by means of various organs which were associated with this action. In the occupied countries—and we must not forget that this usurpation provided the method for the commission of crimes—this usurpation was not the exclusive work of an official, or of an ambassador, or of a military commander. In countries which had a Reich Commissioner there also existed a military administration. A country placed under the sole regulating authority of the Army also had diplomatic agents. In all countries there were police authorities.

In all these occupied countries, as a result of the occupation and the usurpation of sovereignty, there were systematic abuses and crimes. Many of them are already known to the Tribunal. Others have still to be mentioned.

From what I have just said, we see that the responsibility for these abuses does not exist only with one or the other of these administrations which we have mentioned, it exists with all of them. It may be true that in Belgium, for instance, there was no diplomatic representation; but there was such representation in France and in Denmark. It therefore follows that the Department of Foreign Affairs and its head could not help being aware of the conditions under the occupation which, as far as the principal features are concerned, were similar in the different countries.

Moreover, as I have just said, these coexisting administrations had no fixed division of functions. Even if this division of functions had existed, it must be pointed out that the responsibility and the complicity of each in the action of the others would have been sufficiently proved by their knowledge and their approval—which was at least implicit with regard to this action. But even this division did not exist, and we shall show that all were associated and accomplices in a common action.

Now, this very fact involves a more far reaching consequence. The association and complicity of these various departments involves all the leaders and all the organizations here accused in a general responsibility. I shall explain this point by giving an example. If, for instance, all the abuses and all the crimes had been committed only by the Army without a single interference, perhaps it would be possible for one important person, or organization, having no military functions, to claim that it had no knowledge of these abuses and of these crimes. Even in this case I think this claim would be difficult to uphold, because the vast scope of the enterprises which we denounce made it impossible for anyone who exercised a higher authority not to know of these things. However, since several administrations are jointly responsible, it necessarily follows that the other authorities are also responsible, because the question at this point is no longer the question whether one administration is involved, or even three, but all the administrations; it involves the consubstantial element of all the authorities of the State.

I shall speak later of the order concerning the deportation of the Jews; and I shall show that this order was the result of a common action of the military administration, the diplomatic administration, and the Security Police, in the case of France. It follows that in the first place the Chief of the High Command, in the second place, the Minister of Foreign Affairs, and in the third place, the Chief of the Security Police and Reich Security Service—these three persons—

were all necessarily informed and necessarily approved this action, for it is clear that their offices did not keep them in ignorance of such plans concerning important affairs and that, moreover, decisions were agreed upon on the same level in the three different administrations.

Therefore these three persons are responsible and guilty. But is it possible that, by an extraordinary chance, among the persons who directed the affairs of the Reich, as ministers or as persons holding equivalent offices, these three persons turned out to be criminals and the only ones to be criminals and that they had conspired among themselves to hide from the others their criminal actions? This idea is manifestly absurd. In view of the interpenetration of all the executive departments in a modern state, all the leaders of the Reich were necessarily aware of and agreed with the usurpation of sovereignty in the occupied countries, as well as the criminal abuses resulting therefrom.

In this chapter I shall go on to speak first of Denmark, which is a special case. Then I shall speak of the civil administration which existed in Norway and in Holland, and finally I shall speak of the military administration which was the regime in Belgium and in France.

I think it would be a suitable time now for the Tribunal to have a recess; or if the Tribunal prefers, I can continue my brief.

THE PRESIDENT: We will adjourn now.

M. FAURE: After the recess I should like to call the witness of whom I spoke to the Tribunal yesterday. I should like to mention one fact, however. Yesterday the lawyer for Seyss-Inquart requested that he be allowed to cross-examine this witness on Monday. Senator Vorrink, who is my witness, is absolutely obliged to leave Nuremberg this evening. I think, therefore, that the lawyer for Seyss-Inquart might cross-examine him today. In any case I should like to notify him of the modification of the request which I made yesterday.

THE PRESIDENT: Wouldn't it be possible, if the counsel for Seyss-Inquart wants to cross-examine the witness, for the witness to be brought back at some other date?

M. FAURE: My witness can of course be brought back at another date, if it should be necessary.

THE PRESIDENT: That is what I meant. Let him go this evening in accordance with arrangements that he has made, and then at some date convenient to him he could be brought back if the defendant's counsel wants to cross-examine him.

[A recess was taken.]

M. FAURE: Mr. President, may I ask the permission of the Tribunal to call the witness, Jacobus Vorrink.

THE PRESIDENT: Yes, have him called.

M. FAURE: This witness speaks Dutch as his native tongue. Since the interpreting system does not include this language, I propose that he speak in the German language, which he knows well.

[The witness, Jacobus Vorrink, took the stand.]

THE PRESIDENT: What is your name?

JACOBUS VORRINK (Witness): Vorrink.

THE PRESIDENT: Your Christian name, your first name?

VORRINK: Jacobus.

THE PRESIDENT: Do you swear to speak without hate or fear, to say the truth, all the truth, and only the truth? Will you raise your right hand and say, "I swear"?

VORRINK: I swear.

M. FAURE: Sit down, Mr. Vorrink. You are a Dutch Senator?

VORRINK: Yes, Sir.

M. FAURE: You are President of the Socialist Party of the Netherlands?

VORRINK: Yes, Sir.

M. FAURE: You exercised these functions in 1940 at the time of the invasion of the Netherlands, by the Germans?

VORRINK: Yes.

M. FAURE: I should like to ask you to give a few explanations on the following situation: There existed in the Netherlands, before the invasion, a National Socialist Party. I should like you to state what the situation was, after the invasion by the Germans and during the occupation, with regard to the various political parties in the Netherlands, and more particularly the National Socialist Party, and what were the activities of this Party in liaison with the German occupation?

VORRINK: I should prefer to speak in the Dutch language. I am sorry I do not know French and English well enough to use these languages—but in order not to delay the proceedings, I shall make my declarations in German. This is the only reason why I am using the German language.

The political situation in Holland after the invasion by the Germans was that first and foremost the German Army wanted to maintain public order in Holland. But the real Nazis immediately came with the Wehrmacht and tried to direct and organize public life in Holland according to their concepts. There were among the Germans three main categories. In the first place, there were those

who believed in the "blood and soil" (Blut und Boden) theory. They wanted to win over the whole of the Dutch people to their National Socialist concepts. I must say that, in certain respects, this was our misfortune because these people, on the basis of their "blood and soil" theory, loved us too much and when that love was not reciprocated it turned to hate.

The second category consisted of the politically informed; and these people knew perfectly well that the Dutch National Socialists in Holland were only a very small and much hated group. At the elections of 1935 they received only 8 percent of the votes, and 2 years later this percentage had been reduced by one-half. These people were tactlessness itself. For instance, when the ruins of Rotterdam were still smoking, they saw fit to make a demonstration at which the leader of the Dutch National Socialists, Mussert, dedicated to Göring a new bell as a thank offering for what he had done for Holland. Fortunately, it did not prevent him from being defeated.

In the third place there were the so-called intriguers, those who wanted to destroy the national unity of Holland and who, first of all, tried through Seyss-Inquart to gain the favor of the Dutch people by flattery. In the same way as Seyss-Inquart, they always stressed that the two peoples were kindred races and should therefore work together, while behind the scenes they played off one Nazi group against the other.

In Holland at that time there existed the Dutch National Socialist Workers' Party, the Dutch National Socialist Front, and the so-called National Front. All these three movements had their contacts with certain German organizations. The Germans first tried to find out whether it was possible to use these groups for their purposes. Slowly, however, they recognized that it was not possible to work with these groups; and so they decided to adopt the National Socialist movement only. These National Socialists gradually occupied the key positions in the Dutch administration. They were appointed general secretaries for internal administration, they became commissioners of the provinces, mayors, *et cetera.*

I should like to mention in this connection that at that time there were not enough people qualified to become mayors, so that short courses of instruction were arranged which performed the record feat of turning out Dutch mayors in 3 weeks. You can imagine what kind of mayors they were.

Furthermore, they became administrators in nazified organizations and commercial undertakings, which gave them certain power in Holland; and they behaved like cowardly Nazi lackeys.

Mr. Rost von Tonningen, for instance, used millions of Dutch guilders to finance the war against Russia in order to fight against

Bolshevism as he called it. Finally, in December 1942, Seyss-Inquart declared the Nazi Party to be the representative of the political life of Holland. If it had not been so tragic, one might have laughed at it. Mussert was then appointed as the Leader of Holland. I must add that the Nazi Party had only a shadow existence from the political point of view, with the single but important exception that these people had occasionally the opportunity to deal with matters of personnel. I should also add that sometimes they turned the heads of young Dutchmen and persuaded several thousands of them to enter the SS formations; and during the last years it became even worse. Then they even went so far as to put young boys into the SS without their parents' consent. They even forced minors from correctional institutions into the SS. Sometimes—I know of cases myself—young boys who for certain reasons were at loggerheads with their parents, were taken into the SS. To realize the harm done you must, as I have sometimes done, go and speak to these children who are now in camps in Holland. You will then see what a monstrous crime has been committed against these young people.

M. FAURE: Am I to understand that all these methods employed by the Germans were intended to achieve the nazification of Holland and that if there were, as you have indicated, several varying tendencies among the Germans, these tendencies differed only as to the means to be employed and not in regard to the purpose of Germanization?

VORRINK: The actual nazification of Holland extended to practically all spheres of our national life. They tried in every domain to introduce the Leadership Principle. I would like to point out, for instance, that contrary to our expectations, they did not ban the Socialist Trade Unions but just tried to employ them. They merely sent a Nazi commissioner who told the people, "The era of democracy is past, just go on working under the leadership of the commissioner and you can still help the workers. It is not necessary to change anything." They even tried that with the Dutch political parties.

As President of the Socialist Democratic Workers' Party of Holland, I had a long conversation with Rost von Tonningen, who personally told me that it was a pity that the good cultural work done to educate the workers should cease. We both wanted socialism and all we had to do was to work together calmly. I denied that at the time of that conversation. I told him that for us democracy was not a question of opportunism but a part of our ideology and that we were not prepared to betray our convictions and our principles.

They tried to keep the workers in their organizations; but slowly the workers, thousands and tens of thousands of them, left their organizations. When finally the National Labor Front was created, with the Catholic and Christian Trade Unions, there certainly was an organization but no longer any members.

M. FAURE: Can you state with accuracy whether in your country persecutions against the Jews were started?

VORRINK: One of the worst chapters of our sufferings in Holland was the persecution of the Jews. You may know that we in Holland, and especially in Amsterdam, had a strong Jewish minority. These Jews took a very active part in the public and cultural life of Holland, and one can say there was no anti-Semitism in Holland.

When the Germans first came to Holland, they promised us that they would not harm the Jews at all. Nevertheless, even in the first weeks there was a wave of suicides. In the following months the measures against the Jews started. The professors in the universities were forced to resign. The president of the highest court in Holland was dismissed. Then the Jews had to present themselves for registration, and then came the time when the Jews were deported in great numbers.

I am proud to say that the Dutch population did not suffer this without protesting. The Dutch students went on strike when their Jewish professors were driven out, and the workers of Amsterdam went on strike for several days when the persecution of the Jews started. But one has to have seen this with one's own eyes, as I have, to know what a barbaric system this National Socialism was.

The Green Police sealed off whole sections of cities, went into houses, even went on the roofs, and drove out young and old and took them off in their trucks. No difference was made between young and old. We have seen old women of over 70, who were lying ill at home and had no other desire than to be allowed to die quietly in their own home, put on stretchers and carried out of their home, to be sent to Westernborg and from there to Germany, where they died.

I myself remember very well how a mother, when she was dragged from her home, gave her baby to a stranger, who was not a Jewess, and asked her to look after her child. At this moment there are still hundreds of families in Holland where these small Jewish children are being looked after and brought up as their own.

M. FAURE: Can you state whether, apart from these measures against the Jews, the Germans concerned themselves with other confessions?

VORRINK: From the beginning the Germans always tried to get the churches into their power. All the churches, the Catholic as

well as the Protestant, protested whenever the Germans violated human rights. The churches protested against the arbitrary arrest of persons, against the mass deportation of our workers, and the church never failed to testify for the Jews.

Of course, the church dignitaries, the priests and pastors, had to suffer for that; and hundreds of our pastors and priests were taken to concentration camps, and of the 20 parsons and priests whom I knew in the concentration camp in Sachsenhausen, only one has returned to Holland.

M. FAURE: Can you state what measures were adopted with regard, for example, to culture, propaganda, and teaching?

VORRINK: What incensed us most in Holland was not so much our military defeat. We were a small people, and I can say that during those 5 days we fought as well as we could. Perhaps it would have been possible to maintain a correct attitude with the occupation forces, if it hadn't been for the Nazis' determination to dominate us, not only in a military sense, but also to break our spirit and to crush us morally. Therefore, they never lost an opportunity of encroaching on our cultural life in their efforts to nazify us.

In regard to the press, for instance, they forced us to publish in our press editorials which were written by Germans and to print them on the front page in order to create the impression that the editor in chief of the paper had written them. One can even say that these measures were the starting point for the very extensive underground press in Holland, because we wouldn't allow the Germans to lie to us systematically. We had to have a press which told us the truth.

Also in regard to the radio, it was soon forbidden to listen to foreign stations; and they dealt out exceedingly harsh punishment to people who defied this ban; and there were a great many people in Holland who listened to the foreign radio, especially the BBC. And we in Holland were always glad to hear the British radio which never hesitated to give the people, *in extenso,* all the affecting speeches of Hitler and Göring, while we were not allowed to listen to Churchill's speeches. In those moments we were deeply conscious of the reasons why we had built up our resistance, and we also knew why our Allied friends strove with all their might to deliver the world from the Nazi tyranny.

It was the same in the field of the arts. Quite a number of guilds for painters, musicians, and writers were forced to organize themselves. An author could not even publish a book without submitting it to some Nazi illiterate.

They also encroached on school life and tried to influence elementary education; for instance, in the text books for children of 6 to

12 years they ordered that whole sentences should be struck out. A sentence like the following, "When the Queen visited them the people cheered." In the schools and public buildings they organized real hunts for pictures of our Royal Family.

M. FAURE: I thank you.

THE PRESIDENT: You have finished your examination, have you?

M. FAURE: Yes.

THE PRESIDENT: General Rudenko?

GENERAL RUDENKO: No questions.

THE PRESIDENT: Have the British or American prosecutors any questions? *[There was no response.]* Does any member of the defendants' counsel wish now to cross-examine?

DR. STEINBAUER: Mr. President, in order to avoid the witness having to make the long trip from Holland a second time, I should like to cross-examine him today, although my client is absent.

Witness, when Seyss-Inquart took over the government in Holland under the decree of 18 May 1940, was the Queen or were members of the Dutch Government still on Dutch territory?

VORRINK: No, they were no longer on Dutch territory.

DR. STEINBAUER: Did the government of Seyss-Inquart, the Reich Commissioner, leave in office the functionaries of the former government?

VORRINK: Yes.

DR. STEINBAUER: Do you know that of the nine General Secretaries appointed by the former Royal Government and still in office only one was dismissed?

VORRINK: Well, it is possible.

DR. STEINBAUER: Do you further know that of the 11 Commissioners of the Provinces only four were dismissed from the government for political reasons?

VORRINK: I do not know the exact number but that is possible.

DR. STEINBAUER: Do you know how many mayors were appointed by the Royal Government and in particular is it correct that there were more than one-half still in office in 1944?

VORRINK: Yes, I believe so.

DR. STEINBAUER: You have not answered fully the question which was asked you by the prosecutor. He asked you how many political parties there were in parliament at the time of the invasion. Which were those parties?

VORRINK: The Catholic Party, two Protestant Christian parties, two liberal parties, the Social Democratic Party, the Communist Party, and some minor parties.

DR. STEINBAUER: I shall now talk about two subjects mentioned by you—schools and churches. Is it correct that the Dutch school system, throughout the Seyss-Inquart regime, was under the direction of a Dutchman, Van Hann?

VORRINK: It was under a Dutchman during the whole time, but we do not consider him as a Dutchman. He is today in prison because he betrayed his country.

DR. STEINBAUER: But he was not a German?

VORRINK: He was a Dutch traitor.

DR. STEINBAUER: Is it correct that Seyss-Inquart showed great interest in the Dutch school system?

VORRINK: I cannot remember that.

DR. STEINBAUER: For instance, Seyss-Inquart added an eighth class to the elementary school?

VORRINK: That is not correct.

DR. STEINBAUER: And that in this way adolescents did not have to enter the labor services until later?

VORRINK: Correct.

DR. STEINBAUER: Did he show an interest in a long standing wish of the Dutch concerning the spelling of the Dutch language and did he not appoint a special committee to investigate the matter?

VORRINK: In this connection he did take some interest in a thing about which he knew nothing; he got his information from the wrong people.

DR. STEINBAUER: But he did make an effort.

VORRINK: Yes, but in the wrong direction.

DR. STEINBAUER: Is it correct that he endeavored to increase the number of teachers?

VORRINK: No, certainly not.

DR. STEINBAUER: That, in particular, he employed junior teachers and reduced expenses thereby?

VORRINK: He did that because he wanted to influence the Dutch youth.

DR. STEINBAUER: Do you know, for instance, that as a result of protests, Seyss-Inquart rescinded measures that had been taken against the School of Commerce in Rotterdam?

VORRINK: Will you repeat the question? I did not understand it.

DR. STEINBAUER: Do you know that Seyss-Inquart, as a result of protests, took steps to see that the School of Commerce in Rotterdam was not interfered with?

VORRINK: I do not know.

DR. STEINBAUER: As far as the churches are concerned, apart from deportation, as you say for political reasons, were the Catholics and Protestants ever prevented from practicing their religion?

VORRINK: The Germans interfered very much with the right to worship. They put spies in the churches to listen to the sermons with the idea of possibly denouncing the pastors.

DR. STEINBAUER: Yes, but that has happened in other countries too. Please, tell me, could the priest or the parson still continue to preach according to his conscience?

VORRINK: No, certainly not according to his conscience.

DR. STEINBAUER: Do you know that during the whole of the occupation the prayer for the Queen was allowed in churches of all denominations?

VORRINK: It was certainly not allowed. Several ministers were arrested for that very reason.

DR. STEINBAUER: Do you know that Seyss-Inquart prevented 27 convents from being confiscated for German refugees? Is it correct?

VORRINK: I know nothing about it.

DR. STEINBAUER: But perhaps you may know that he prevented the destruction of the synagogues in Rotterdam and in The Hague. The police wanted to destroy them, and he prevented them from doing it. Do you know anything about that?

VORRINK: I do not know whether he wanted to prevent it; but in any case, the synagogues were destroyed; and those who destroyed them went unpunished and later took part in the worst persecution of the Jews.

DR. STEINBAUER: Witness, do you know that out of the Catholic and Protestant Dutch clergymen deported to Germany, Seyss-Inquart succeeded in getting two-thirds sent back to their country?

VORRINK: I do not know.

DR. STEINBAUER: Do you know that he prevented the departure of valuable cultural treasures, especially libraries, which were already prepared for transportation from Holland to the Reich?

VORRINK: I do not know whether he used his personal influence in that respect; I only know that enormous quantities of our art treasures and books were taken away by the Germans, and in any case he was then powerless to prevent it.

DR. STEINBAUER: You said also that the radio was prohibited because it stimulated the organization of resistance. As a leader, would you have allowed a radio speaking against you?

VORRINK: I would by all means allow the radio. I am of the opinion that there can be no human dignity if people are not allowed to form their opinions by hearing reasons for and against.

DR. STEINBAUER: Was Mussert given the task of forming a government, or was that not done because Seyss-Inquart objected?

VORRINK: I really do not know what happened behind the scenes, but perhaps you may be right that Seyss-Inquart was no friend of Mussert. While in prison I was taken out of my cell one night and asked to write an article on the National Socialist movement in Holland, and I was requested to give my own personal opinion about Mussert. When I answered, 'Why should I do this? You know what I think of Mussert and of all the Nazis,' they said: 'You cannot make it bad enough.' I took this to be one of the many machinations of the Nazi cliques which fought against each other.

DR. STEINBAUER: I thank you. I have no further questions.

HERR BABEL: Witness, you spoke of Dutch youngsters who had entered the SS. Could you tell me approximately what the total number was?

VORRINK: I would say a few thousand.

HERR BABEL: In your opinion how many of those entered the ranks voluntarily and how many were forced?

VORRINK: I cannot give you an exact figure; but I am of the opinion that if minors entered such organizations without the consent of their parents, they did not do it voluntarily. They could not judge the consequences of their actions.

HERR BABEL: I did not ask that question. I asked you how many, in your opinion, joined the SS voluntarily and how many were forced. Will you answer this question and no other?

VORRINK: I have already said that I cannot give you the exact number.

HERR BABEL: Well, an approximate figure.

VORRINK: I should say several hundred were forced.

HERR BABEL: Good, and you gave the total number as several thousand.

VORRINK: They were youngsters who for some reason or another left their homes, and they were taken by the Green Police or the Security Police and pressed into the SS. I myself have come across quite a few cases of this in Dutch concentration camps. As

an old leader in the Youth Movement I was able to speak to these youngsters and got them to tell me about their life.

HERR BABEL: You say "pressed"? What do you mean by "pressed"?

VORRINK: That means that they were threatened with imprisonment if they were not willing to join the SS.

HERR BABEL: You heard that yourself?

VORRINK: Yes.

HERR BABEL: You further said that thousands of workmen left their organizations. I think you said tens of thousands. Did they do so voluntarily, or what was the reason for this?

VORRINK: The reasons were that the workmen refused to be in a nazified trade union and to submit to the Leadership Principle. They wanted to be in their old trade unions where they could have a say in the running of their organizations.

HERR BABEL: The resignations, therefore, were voluntary?

VORRINK: Yes.

HERR BABEL: In regard to the Jewish question you said that at first nothing happened to the Jews, but that nevertheless there was a wave of suicides. Why? What was the reason for those suicides when it had been said, "nothing will happen to you."

VORRINK: These Jews were the most sensible ones. We in Holland did not live on an island, and we knew all that had happened between 1933 and 1940 in Germany. We knew that in Germany the Jews had been persecuted to death, and I personally still have in my possession quite a few sworn statements of German Jews who had emigrated, who kept us hourly informed of how they had been tortured and martyred by the SS during the period before the war. That of course was known to the Dutch Jews, and in my opinion in that respect they were more sensible since they knew they would suffer the same fate.

HERR BABEL: You put it in such a way as to make it sound as if there were a large number of suicides. Was that so, or were there a few individual cases?

VORRINK: This happened to about 30 or 50 people, but in Holland, where we value life very highly, that is quite a large number.

HERR BABEL: Now, you used the word "Nazi illiterate." Quite apart from, I would say, your not very friendly attitude towards us Germans, have you any justification for saying this? Have you met a single German who was illiterate?

VORRINK: I am rather surprised at this question. By an "illiterate Nazi" I meant a man who talks about things about which he has no knowledge, and the people who judged an author's work were people who had been set to read through the book to find out whether a Jew appeared in it and was presented as a good and humane character. According to the Nazi concepts, such a book could not be published. I would add that I have used the word "Nazi illiterate" from the days when there were found in the German cities, in the country of Goethe and Schiller, great piles of burned books, books that we had read and admired in Holland.

HERR BABEL: I understand you to mean that you can bring no positive facts which might justify this derogatory word "Nazi illiterate."

Thank you.

DR. OTTO PANNENBECKER (Counsel for Defendant Frick): I have just one question, Witness. You just said that young people who did not enter the SS were threatened with prison. Do I understand you to say that they would be given prison sentences for an offense committed previously or that they would be imprisoned only because they did not enter the SS?

VORRINK: They would be given a prison sentence, of course, because they had been threatened. Whether they would have put them in prison, I do not know, but it was a threat. It was one of the usual methods of the Nazis to say "We want you to do this or that, and if you do not we will put you in prison." There were so many instances of this sort that one could have no illusions about it.

DR. PANNENBECKER: But it is correct in this case that these were youngsters who had run away from home because of differences with their parents?

VORRINK: Those are cases which I know of personally.

DR. PANNENBECKER: I thank you.

THE PRESIDENT: Does any other Defense Counsel wish to ask any questions? *[There was no response.]* M. Faure, do you wish to ask any questions?

M. FAURE: I have no further questions.

THE PRESIDENT: Then, the witness can leave.

[The witness left the stand.]

M. FAURE: I shall ask the Tribunal to be kind enough to take the brief and the document book, bearing the title "Denmark."

The Tribunal knows that Denmark was invaded on 9 April 1940 in violation, as in other cases, of treaties, and particularly, of a

treaty which was not very old, since it was the Non-Aggression Treaty which had been concluded on 31 May 1939.

Inasmuch as Denmark was not in a position to offer armed resistance to this invasion, the Germans sought to establish and maintain the fiction according to which that country was not an occupied country. Therefore they did not set up a civil administration with powers to issue regulations as they were to do in the case of Belgium and Holland.

On the other hand, there was a military command, inasmuch as troops were garrisoned there. But this military command, contrary to what happened in the other occupied countries, did not exercise any official authority by issuing ordinances or general regulations.

In spite of this fiction, the Germans did commit in this country which they pretended they were not occupying, usurpations of sovereignty. These usurpations were all the more blatant, inasmuch as they had no juridical justification whatsoever, even from the Nazi point of view.

During the first period, which extended to the middle of 1943, German usurpations were discreet and camouflaged. There were two reasons for this. The first was that one had to take into account international public opinion, inasmuch as Denmark was not officially occupied. The second reason was that the Germans had conceived the plan to germanize the country from within by developing National Socialist political propaganda there.

I think it should be noted, very briefly, that this Germanization from within had already begun before the war. It is set forth in detail and in a most interesting manner in a part of the official report of the Danish Government, which I place before the Tribunal as Document Number RF-901.

This Document Number RF-901 comprises the whole of the green dossier which the Tribunal has before it. There are several sections. The subject of which I am now speaking is to be found in the first document of this bundle. This first document starts with the heading "Memorandum."

This document shows that even before the war the Germans had organized an information service which was supplemented by a clever espionage service. In particular they had established a branch of the National Socialist Party, into which Germans living in Denmark were recruited. The idea was first of all to form a party made up of Germans and we shall shortly see how this National Socialist Party was afterwards called the Danish Party.

This branch of the German Party was called NSDAP, Ausland-Organisation, Landeskreis Dänemark (Foreign Section, Regional District Denmark). It acted in co-ordination with other institutions;

particularly, the Deutsche Akademie, the Danish-German Chamber of Commerce, and the Nordische Gesellschaft (Nordic Association).

A German organization in Hamburg called the Deutsche Fichtebund, which was directly under the Reich Ministry of Public Enlightenment and Propaganda, undertook a systematic propaganda campaign in order to gain favorable Danish public opinion.

In this connection I should like to quote a passage of the document which is worthy of note from the point of view of German premeditation and of the methods employed. This passage is in the first document which I have just mentioned and which is called "Memorandum"—on Page 6 of this first document. I shall skip the first sentence of this paragraph.

I would point out to the Tribunal, in case it should be more convenient for them because of the length of the document, that these quotations are to be found in the exposé:

> "This information agency, which functioned in Hamburg with no less than eight different addresses, gave in one of its publications the following details about itself. It was established in January 1914 in memory of the German philosopher, Fichte, and was to be looked upon as a 'union for world truth.' The objects were: (1) The promotion of mutual understanding by the free publication of information on the new Germany. (2) The protection of culture and civilization by the propagation of truth concerning the destructive forces in the world."

I skip one sentence and continue:

> "This German propaganda had for its essential purpose the creation in Denmark of a nation-wide sentiment favorable to Germany and hostile to England, but it could also represent an attempt to prepare the ground for the introduction into Denmark of a Nazi system of government by collecting surreptitiously all manifestations of discontent in Denmark against the democratic regime in order to use such data as documentary proof in the event of a liberation action in the future. Thus, in January 1940, the propaganda was no longer content merely with attacking England and her methods of conducting the war, or the Jews and their mentality; but it proceeded to make serious attacks on the mentality of the government and the Danish Parliament."

Finally, in this connection the Danish report mentions a very revealing incident:

> "At the end of February 1940, the Danish police seized from a German subject, a document entitled, 'Project for Propaganda in Denmark.' "

In saying this, I am summarizing the first paragraph of Page 7 of this report. This document contains a characteristic sentence. It is the last sentence in that paragraph, in German, and is in quotation marks with a French translation in parenthesis:

"It should be possible for the Legation and its collaborators to control the daily press."

Germany did not limit herself to the use of her own subjects as agents inside the country and for carrying out propaganda, but the Nazis also inspired the organization of Danish political groups which were affiliated with the Nazi Party.

This campaign first of all found favorable ground in southern Jutland, where there was a German minority. The Germans thus were able to promote the organization of a group called Schleswig'sche Kameradschaft, or SK, which exactly corresponds to the German SA. The members of this group received military training. Likewise a group called Deutsche Jugendschaft Nordschleswig had been organized on the pattern of the Hitler Jugend.

I want to call the attention of the Tribunal to the fact that I am now summarizing the statements in the Danish report in order to avoid reading in full. These statements are developed in detail in the following chapters of the report and what I have just said is on Page 7.

This German infiltration had been completed by social institutions such as the Wohlfahrtsdienst founded in 1929 at Tinglev, and the Deutsche Selbsthilfe, founded in 1935, and also by economic organizations, the model of which was Kreditanstalt Vogelgesang, which by very clever and secret financing on the part of the Reich, had succeeded in taking over important agricultural properties.

The movement formed in southern Jutland then tried to spread to the whole of Denmark. Thus, there existed, even before the war, a National Socialist Party of Denmark, whose leader was Fritz Clausen. We read in the governmental report, Pages 6 and 7:

"With regard to the relations of the Party with Germany prior to the occupation it can be said that Fritz Clausen, himself, as well as the members of the Party, were assiduous participants at the Party Days held in Nuremberg and at the Congress of Streicher at Erfurt and that, in any event, Fritz Clausen personally was in very close relation with the German Foreign Office.

"This propagation of Nazism in Denmark, starting in southern Jutland and spreading to the rest of the country, is illustrated by the fact that the Nazi newspaper, called *Das Vaterland,* which at first was published in Jutland, was transferred in

October 1939 to Copenhagen, where it was published from then on as a morning daily."

Such, then, was the situation when the occupation started. As I have indicated, the Germans did not establish a formal occupation authority; and it follows that the two principal agents for the usurpation of sovereignty in Denmark were diplomatic representation on the one hand, and the Danish Nazi Party on the other.

The German Reich Plenipotentiary in Denmark was at first Von Renthe-Fink, and from October 1942, Dr. Best.

Cases of diplomatic infringement on Danish sovereignty were numerous; and the demands, made at first in a discreet manner, became more and more sweeping. I shall quote, for example, a document which is contained in the government report. This document is a memorandum submitted by the Reich Plenipotentiary on 12 April 1941.

May I point out to the Tribunal that this text is to be found in Book Number 3 of the report submitted. This third book is entitled, "Second Memorandum," or rather, it is a continuation of this third book and there is a sheet entitled "Annex One." I am now quoting:

"The German Reich Plenipotentiary has received instructions to demand from the Royal Government of Denmark:

"First: A formal declaration as to whether His Majesty, the King of Denmark, to whom M. De Kauffmann, Minister of Denmark now refers, or any other member of the Royal Danish Government had, prior to its publication, any knowledge of the treaty concluded between M. De Kauffmann and the American Government.

"Second: The immediate putting into effect of the recall of M. De Kauffmann, Minister of Denmark, by His Majesty, the King of Denmark.

"Third: The delivery without delay to the American Chargé d'Affaires in Copenhagen of a note disavowing M. De Kauffmann, communicating the fact that he is being recalled, and stating that the treaty thus concluded is not binding upon the Danish Government, and formulating the most energetic protest against the American procedure.

"Fourth: A communication to be published in the press, according to which the Danish Royal Government clearly states that M. De Kauffmann acted against the will of His Majesty, the King, and of the Danish Royal Government and without their authorization; that he has been recalled, and that the Danish Government considers the treaty thus concluded as

not binding upon it and has formulated the most energetic protests against the American procedure.

"Fifth: The promulgation of a law according to which the loss of nationality and the confiscation of property may be pronounced against any Danish subject who has been guilty of grave offenses abroad against the interests of Denmark, or against the provisions laid down by the Danish Government.

"Sixth: M. De Kauffmann is to be brought to trial for the crime of high treason, by virtue of Article 98 of the penal code, and of Article 3, Section 3, of the law of 18 January 1941, and to lose his nationality in conformity with a law to be promulgated, as mentioned under Paragraph 5."

I believe that this very characteristic example shows how the sovereignty of the legitimate Danish Government was violated by the Germans. They gave orders in the sphere of international relations, although liberty in this sphere constitutes the essential attribute of the sovereignty and the independence of the State. They even go so far, as the Tribunal has seen in the last two paragraphs, as to demand that a law be passed in accordance with their wishes and that a prosecution for high treason be made in conformity with such law, on the supposition that it will be promulgated at their instance.

To conclude the subject, I should like to read a passage from the Danish Government report which appears in the second supplementary memorandum on Page 4, the third book in the green file:

"In the month of October there occurred a sudden crisis. The Germans claimed that His Majesty, the King, had offended Hitler by giving too short a reply to a telegram which the latter had sent to him. The Germans reacted abruptly and with extreme violence. The German Minister in Copenhagen was immediately recalled. The Danish Minister in Berlin was then recalled to Denmark. Minister Von Renthe-Fink was replaced by Dr. Best, who arrived in the country with the title of Plenipotentiary of the German Reich and who brought with him sweeping demands on the part of the German Minister of Foreign Affairs, Von Ribbentrop, including a demand for a change in the Danish Government and the admission of National Socialists into the Government. These demands were refused by Denmark and, the government having dragged out the matter, they were finally abandoned by Dr. Best."

THE PRESIDENT: This may be a convenient time to break off.

[The Tribunal adjourned until 4 February 1946 at 1000 hours.]

FIFTIETH DAY

Monday, 4 February 1946

Morning Session

MARSHAL: May it please the Court, I desire to announce that the Defendant Kaltenbrunner will be absent from this morning's session on account of illness.

M. FAURE: May it please the Tribunal, Mr. Dodd would like to give some explanations.

MR. DODD: May it please the Court, with reference to the prospective witness Pfaffenberger, over the weekend it occurred to us, after talking with him, that perhaps if Defense Counsel had an opportunity to talk to him we might save some time for the Court. Accordingly we made this witness available to Dr. Kauffmann for conversation and interview; he has talked with him as long as he has pleased, and has notified us that in view of this conversation he does not care to cross-examine him, and as well other Counsel for the Defense have no desire to cross-examine him.

THE PRESIDENT: Then the witness Pfaffenberger can be released?

MR. DODD: That is what we would like to do, at the order of the Court.

THE PRESIDENT: Very well.

M. FAURE: Gentlemen, during the last session I reached the end of the first period of the German occupation of Denmark. In connection with that first period I should like still to mention a circumstance which is established by the Danish report, Document Number RF-901, second memorandum, Page 4. I quote:

> "When the German aggression against Russia took place on 22 June 1941"—that is the third book of the report—"one of the most serious encroachments was made on the political liberties which the Germans had promised to respect. They forcibly obliged the government to intern the Communists, the total number of which was 300."

The explanations which I gave in the previous session related to the improper interference on the part of the first instrument of German usurpation, the diplomatic representation.

The second instrument of German interference was, as might be expected, the local National Socialist Party of Fritz Clausen, about which I spoke previously. The Germans hoped that in the favorable circumstances of the occupation, and thanks to the support they would bring to it, this party might develop enormously. But their calculations were completely wrong. In effect, in March 1943 elections took place in Denmark; and these elections resulted in the total defeat of the Nazi Party. This party obtained only a proportion which represented 2.5 percent of the votes, and it obtained only 3 seats out of 149 seats in the Chamber of Deputies. I point out to the Tribunal that in some copies of my brief there is a printing mistake and that 25 percent is indicated instead of 2.5 percent, which is the correct figure and which shows what very little success the Clausen party had at the elections.

The conduct of the Germans in Denmark showed a notable change in the period following the month of August 1943. The first reason for this change was clearly the failure of the plan which consisted in seizing power in a legal manner, thanks to the aid of the Clausen party. On the other hand, about the same time, the Germans were equally disappointed in another direction. They had sought, as has been shown in my brief on economic questions, to mobilize Danish economy for the benefit of their war effort. But the Danish population, which had refused political nazification, did not wish to lend itself to economic nazification either. And so the Danish industries and the Danish workmen offered passive resistance, and by a legitimate reaction against the irregular undertakings of the occupying power they organized a sabotage program. There were strikes accompanied by various incidents. Faced with this double failure, the Germans decided to modify their tactics.

In this connection we read in the government report, Page 6 of the second memorandum, the following sentence:

> "As a result of these events, the Plenipotentiary of the German Reich, Dr. Best, was on 24 August 1943, called to Berlin, from whence he returned with claims in the nature of an ultimatum addressed to the Danish Government."

I should now like to submit the text of this ultimatum, which is also to be found in the official Danish report. This is Appendix Number 2 of this report. The ultimatum is dated Copenhagen, 28 August 1943. At the end of the first three books there are several loose sheets which are the appendices. I now come to the second appendix—on Saturday I read the first appendix—which is the second sheet and it has also been copied in my brief:

> "Claims of the Reich Government:
>
> "The Danish Government must immediately declare the entire country in a state of military emergency.

"The state of military emergency must include the following measures:

"1. Prohibition of public gatherings of more than five persons.

"2. Prohibition of all strikes and of any aid given to strikers.

"3. Prohibition of all meetings in closed premises or in the open air; prohibition to be in the streets between 2030 hours and 0530 hours; closing of restaurants at 1930 hours. By 1 September 1943 all firearms and explosives to be handed over.

"4. Prohibition to hamper in any way whatsoever Danish nationals because of their collaboration or the collaboration of their relatives with the German authorities, or because of their relations with the Germans.

"5. Establishment of a press censorship with German collaboration.

"6. Establishment of courts-martial to judge acts contravening the measures taken to maintain order and security.

"Infringement of the measures mentioned above will be punished by the most severe penalties which can be imposed in conformity with the law in force concerning the power of the Government to take measures to maintain calm, order, and security. The death penalty must be introduced without delay for acts of sabotage and for any aid given in committing these acts, for attacks against the German forces, for possession after 1 September 1943 of firearms and explosives.

"The Reich Government expects to receive today before 1600 hours the acceptance by the Danish Government of the above-mentioned demands."

The Danish Government, mindful of its dignity, courageously refused to yield to that ultimatum, although it found itself under the material constraint of the military occupation. Direct encroachments upon the sovereignty then started. The Germans themselves took the measures which they had not succeeded in getting the national government to accept. They declared a state of military emergency; they took hostages; they attacked without warning, which is contrary to the laws of war; and at a time when—let me recall it—a state of war did not exist, they attacked the Danish Army and Navy and disarmed and imprisoned their forces. They pronounced death sentences and deported a certain number of persons considered to be Communists and whose internment, as I pointed out, they had previously required. From 29 August 1943, the King, the Government, and the Parliament ceased to exercise their functions. The administration continued under the direction

of high officials who in urgent cases took measures called, "Emergency Laws." During this same period there existed three German authorities in Denmark:

First, the Plenipotentiary, who was still Dr. Best; second, the military authority under the orders of General Hannecken, replaced subsequently by General Lindemann; and third, the German police.

Indeed, the German police were installed in Denmark a few days after the crisis of which I have just spoken to you. The SS Standartenführer, Colonel Dr. Mildner, arrived in September as Chief of the German Security; and on 1 November there arrived in Denmark as the Supreme Chief of the Police, the Obergruppenführer and Lieutenant General of the Police, Günther Pancke, of whom I shall have occasion to speak again. General of Police Günther Pancke had under his authority Dr. Mildner, whose name I mentioned at first and who was replaced on 5 January 1944 by SS Standartenführer Bovensiepen.

The Tribunal will find in the Danish Government's report, on which I base this information, a chart showing the German officials in Denmark. This chart is to be found in the second memorandum, Page 2. It is interesting, although we are not concerned here with individual cases, insofar as it shows the organization of the German network in this country. During the whole period which I am speaking about now, of the three German authorities already mentioned, the police played the most important role and was the principal organ of usurpation of sovereignty by the Germans. For that reason we might consider that while Norway and Holland represent cases of civil administration and Belgium and France represent cases of military administration, Denmark represents the typical case of police administration. At the same time we must never forget that these different types of administration in all these occupied countries were always interdependent. The seizure of authority by the German police in Denmark during the period from September 1943 until the liberation was responsible for an extraordinary number of crimes. Unlike other administrations, the police did not act under legal or statutory regulations, but it interfered very effectually in the life of the country by the exercise of orderly and systematic *de facto law*. I shall have the opportunity of treating certain aspects of this police administration in the fourth section of my brief. For the moment, within the scope of my subject, I should like simply to cite the facts which constitute direct and general violation of sovereignty. In this connection, I believe that it is indispensable that I inform the Tribunal of a quite exceptional event which took place on 19 September 1944. At that date the Germans suppressed the police—I mean the national police of Denmark—and totally abolished this same institution which is naturally indispensable and essential in all states.

I am going to read on this point what the government report says, second memorandum, that is to say, still the third book of the file, Page 29. I shall begin in the middle of the paragraph, after the first sentence. The extract is to be found in my brief. I quote:

"The fact that the Germans had not succeeded in exerting any influence among the Danish police or among their leaders or in the ranks, was partly the reason why the German military authorities at the end of the summer of 1944 began to fear the police. Pancke explained that General Hannecken himself was afraid that the police, numbering 8,000 to 10,000 well-trained men, might fall upon the Germans in the event of an invasion. In September 1944, believing that an invasion of Denmark was probable, Pancke and Hannecken planned the disarming of the police and the deportation of a part of it. Pancke submitted the plan to Himmler, who consented to it in writing, adding in the letter that the plan had been approved by Hitler. He had moreover discussed the plan with Kaltenbrunner. The operation was carried out by Pancke and Bovensiepen, who had discussed the plan with Kaltenbrunner and Müller of the RSHA, and the regular troops aided this operation with the consent of General Hannecken.

"At 11 o'clock in the morning of 19 September 1944 the Germans caused a false air-raid alarm to be given. Immediately afterwards, the police soldiers forcibly entered the police headquarters in Copenhagen as well as the police stations in the city. Some policemen were killed. They acted in the same way throughout the whole country. Most of the policemen on duty were captured. In Copenhagen and in the large cities of the country the prisoners were taken to Germany in ships, which Kaltenbrunner had sent for this purpose, or in box cars. As has already been said before, the treatment to which they were subjected in German concentration camps was horrible beyond description. In the small country towns the policemen were freed.

"At the same time Pancke decreed what he called a state of police emergency. The exact meaning of this expression has never been explained, and even the Germans do not seem to have understood what it meant. In practice, the result was that all police activities, ordinary as well as judicial, were suspended. Maintenance of order and public security was left to the inhabitants themselves.

"During the last 6 months of the occupation, the Danish nation found itself in the unheard-of situation, unknown in other civilized countries, of being deprived of its police force and the possibility to maintain order and public security. This

state of affairs might have ended in complete chaos if the respect for the law and the discipline of the population, strengthened by the indignation at this act of violence, had not warded off the most serious consequences."

Despite the bearing of the Danish population, the absence of the police during these last 6 months of the occupation naturally resulted in a recrudescence of all forms of criminality. You can get an idea of this if you consider—and that detail will suffice—that the premiums of insurance companies had to be raised to 480 percent—it says so in the report—whereas previously they were limited to half of the normal rate. We are justified in considering that the crimes committed under these conditions involved the responsibility of the German authorities who could not fail to foresee and who accepted this state of affairs. We see here further proof of the total indifference of the Germans to the consequences arising from decisions taken by them to suit their ends at the time.

Finally, I should like to conclude this section on Denmark by quoting to the Tribunal a passage from a document which I shall present as Exhibit Number RF-902. This document belongs to the American documentation under the Number 705-PS, but it has not yet been submitted, and I should like to read an extract, one quotation, which seems to me to be interesting. This is a report drawn up in Berlin on 12 January 1943, and concerns a meeting of the SS Committee of the Research Institute for Germanic Regions (Ausschuss der Arbeitsgemeinschaft für den Germanischen Raum). At this meeting there were present 14 personages of the SS. This report contains a special paragraph which concerns Denmark. Other paragraphs of the same document are of interest in connection with the section which will follow this. Therefore, in order to avoid having to refer to this document twice, I shall read the whole of the passages which I should like to submit as evidence. I start on Page 3 of the document, towards the end of the page.

"Norway. In Norway the Minister Fuglesang meanwhile has become the successor to the Minister Lunde, who has been killed in an accident. Despite the promises made by Quisling's party, Norway may not be expected to furnish an important quota.

"Denmark. In Denmark the situation is extremely encouraging on account of the taking over of power by SS Gruppenführer Dr. Best. We may be convinced that the SS Gruppenführer Dr. Best will furnish a classical example of the ethnical policy of the Reich. The relations with the Party Leader Clausen have recently become difficult. Clausen agreed only to the project for the establishment of a Front Combatant Corps

as a preliminary to the Germanic Schutzstaffel in Denmark, on the condition that members of this corps will be barred from membership to the Party. Negotiations about this urgently needed central organization of front combatants are going on. The monopoly of the Party is untenable; all rejuvenating elements must be mobilized although Clausen personally has to stand in the foreground but without his clique.

"Netherlands. In the Netherlands Mussert has in the meantime been proclaimed Führer of the Dutch people by the Reich Commissioner, Seyss-Inquart. This measure has produced an extremely disquieting effect in other Germanic countries, particularly in Flanders. The decisive role again falls to the General Commissioner whose principle of exploiting Mussert and then dropping him cannot be accepted under a Germanic Reich policy as approved by the SS.

"Flanders: In Flanders the development of the VNV (the Flemish National Movement) continues to be unfavorable. Even the shrewd policy of the new leader of the VNV, Dr. Elias, can no longer deceive us about this. Besides, he once expressed the opinion that Germany was prepared to make concessions in ethnological policy only when she was in bad straits."

This information is quite characteristic. In the first place, it is firmly established that the Germanic regions should include Norway, Denmark, the Netherlands, and Flanders. Naturally I speak only of the western countries. In the second place, we clearly see how the Germans used the Nazi-inspired local parties as an instrument for the usurpation of sovereignty. In the third place, we see it is quite true that the German diplomatic agents were also instruments for this policy of usurpation and completely exceeded their normal functions. In the fourth place, the document confirms the interdependence which existed between the different agents of German interference, which we stressed a short time ago and on which we cannot lay too much emphasis. The case of Dr. Best is a good example. Dr. Best was a minister with plenipotentiary powers; therefore, he was a diplomatic agent. We have seen that this same Dr. Best was previously an agent of the military administration in France, and we see by this document that besides his being a Plenipotentiary Minister he is a General in the SS, and in this capacity, so the document states, he seized power in Denmark. The information contained in the document concerning Norway and the Netherlands is a transition for the following part of this section, and I ask the Tribunal to take the file entitled, "Norway and the Netherlands."

The institution of Reich Commissioner was applied in Norway and in the Netherlands, and in these two countries only; it constitutes a definite concept in the general plan of Germanization, in which these two countries occupy parallel positions. In both cases the establishment of the civil administration followed hard upon the military occupation of the country. The military men, therefore, did not have to take over the administration, and during the few days which preceded the appointment of the Reich Commissioner, they confined themselves to measures concerning order.

In Norway the decree of 24 April 1940 appointed Terboven as Reich Commissioner. This decree is signed by Hitler, Lammers, and the Defendants Keitel and Frick. In Holland the decree of 18 May 1940 appointed the Defendant Seyss-Inquart as Reich Commissioner. This decree is signed by the same persons as the preceding decree, and it bears in addition the signatures of Göring and Ribbentrop.

The decrees appointing the Reich-Commissioners also defined their functions as well as the division of the functions between the civil commissioner and the military authorities. I am not submitting these two decrees as documents since they are direct acts of German legislation. The decree concerning Norway provides in its first article:

> "The Reich Commissioner has the task of safeguarding the interests of the Reich, and of exercising supreme power in the civil domain."—The decree adds—"The Reich Commissioner is directly under me and receives from me directives and instructions."

As far as the division of functions is concerned, I give the text of Article 4, "The Commander of the German troops in Norway exercises the rights of military sovereignty. His orders are carried out in the civil domain by the Reich Commissioner."

This decree was published in the *Official Gazette of German Decrees* for 1940, Number 1. The same instructions are given in a similar decree of 18 May 1940 concerning the Netherlands. The establishment of Reich Commissioners was accompanied at the beginning by some pronouncement intended to reassure the population. Terboven proclaimed that he intended to limit, as much as possible, the inconveniences and costs of the occupation. This is in a proclamation of 25 April 1940 which is in the *Official Gazette,* Page 2.

Likewise, after his appointment, the Defendant Seyss-Inquart addressed an appeal to the Dutch people. This is to be found in the *Official Gazette* for Holland for 1940, Page 2, and in it he expressed himself as follows—he starts off with a categorical phrase:

> "I shall take all measures, including those of a legislative nature, which will be necessary for carrying out this mandate"—and he says also—"it is my will that the laws in force

up to now shall remain in force and that the Dutch authorities shall be associated with the carrying out of government affairs and that the independence of justice be maintained."

But these promises were not kept. It is evident that the Reich Commissioner was to become in Norway and in Holland the principal instrument for the usurpation of sovereignty. He was to act, however, in close relation with a second instrument of usurpation, the National Socialist organization in the country. This collaboration of the local Nazi Party with the German authority, represented by the Reich Commissioner, took perceptibly different forms in each of the two countries under consideration. Thus, the exercise of power by the Reich Commissioner presents in itself differences between Norway and Holland which were more apparent than real.

In both countries the local National Socialist Party existed before the war. It grew and was inspired by the German Nazi Party and had its place in the general plan of war preparations and the plan for Germanization. I should like to give some information concerning Norway.

The National Socialist Party was called "Nasjonal Samling." It had as leader the famous Quisling. It was a perfect imitation of the German Nazi Party. I submit to the Tribunal as Document Number RF-920, the text of the oath of fidelity subscribed to by members of this Nasjonal Samling Party. I quote:

"My pledge of allegiance: I promise on my honor:

"1. Unflinching allegiance and loyalty towards the National Socialist movement, its idea, and its Führer."—This is the third page of the Document RF-920.

"2. To stand up energetically and fearlessly for the cause, always to offer reliability and loyal discipline at my work, and to do all I can in order to acquire the knowledge and abilities which my work for the Movement demands.

"3. To the best of my abilities to live in compliance with the National Socialist concept and to show solidarity, understanding, and good comradeship to all my companions.

"4. To obey any orders given by the Führer or by his appointed officials insofar as such orders are not in disagreement or do not violate the directions of the Führer.

"5. Never to reveal to unauthorized persons details of NS methods of work or anything detrimental to the Movement.

"6. At all times to make the utmost effort to contribute to the progress of the Movement, and to the achievement of its purpose, and to play the part in the fighting organization which I have undertaken to do under promise of fidelity, quite

conscious that I should be guilty of an unworthy and vile act if I broke this promise.

"7. If circumstances should make it impossible for me to continue as a member of the fighting organization, I promise to withdraw in a loyal manner. I shall remain bound by the vow of secrecy which I made and I shall do nothing to harm the Movement.

"Our aim. The aim of the Nasjonal Samling is: A new state, a Norwegian and Nordic fellowship within the world community, organically constructed on the basis of work, with a strong and stable administration, a combination of common and private weal."

This party therefore conforms completely to the Leadership Principle and while it shows a Norwegian facade, it is nothing but a facade. In fact on the very day of the invasion the Nazis imposed the establishment of an alleged Norwegian Government, presided over by Quisling. At that time the Norwegian Supreme Court appointed a board of officials who were to be invested, under the title of Administrative Council, with powers of higher administration. This Administrative Council constituted therefore, in the exceptional circumstances in which it was set up, a qualified authority for representing the legitimate sovereignty, at least in a conservative way. It functioned only for a short time. By September the Nazis found that it was not possible for them to obtain the participation or even passive acceptance of the Administrative Council and of the administrators. They themselves then appointed 13 commissioners, of whom 10 were selected among the members of the Quisling party. Quisling himself did not exercise any nominal function, but he remained the Führer of his party.

Finally, a third period began on 1 February 1942. At that date Quisling returned to power as Minister President, and the commissioners themselves assumed the title of ministers. This situation lasted until the liberation of Norway. Thus, except for a few months in 1940, the Germans completely usurped all sovereignty in Norway. This sovereignty was divided between their direct agent, the Reich Commissioner, and their indirect agents, first called State Councillors and then the Quisling Government, but always an emanation of National Socialism.

There is no doubt whatever that the independence of these organizations vis-à-vis the German authorities was absolutely nil. The fact that the second organization was called a government did not mean a strengthening of its autonomous authority. These were merely differences of form, the nature of which I shall point out to the Tribunal. I submit, in this connection, two documents, Documents RF-921 and RF-922. By comparing these two documents you will

see that what I have just affirmed is correct. These two documents are instructions addressed by the Reich Commissioner to his offices concerned with legislative procedure.

Document Number RF-921 is dated 10 October 1940; that is the very beginning of the period of the State Councillors. I quote an extract from this document, "All the decrees of the State Councillors must be submitted to the Reich Commissioner before publication." This is to be found in the second paragraph. It is the only point which I should like to bring out in this document. Therefore all the decrees of the higher Norwegian administration were under the control of the Reich Commissioner.

The second document, Document Number RF-922, is dated 8 April 1942. It relates to the period shortly after the establishment of the second Quisling Government. I start at the second sentence of this document:

> "In view of the formation of the National Norwegian Government on 1 February 1942 the Reich Commissioner has decided that from now on this form of agreement"—a prior agreement in writing—"is no longer required. Nevertheless, this modification of formal legislative procedure does not mean that the Norwegian Government may proclaim laws and decrees without the knowledge of the competent department of the Reich Commissioner. His Excellency, the Reich Commissioner, expects every department chief to acquaint himself, by close contact with the competent Norwegian departments, with all legislative measures which are in preparation, and to find out in each case whether these measures concern German interests, and to assure himself, if necessary, that German interests will be taken into consideration."

Thus, in the one case, there is a formal control with written authorization. In the other case there is a control by information among the different departments, but the principle is the same. The establishment of local authority under one form or under another form was merely a means of finding out the best way of deceiving public opinion. When the Germans put Quisling into the background, it was because they thought the State Councillors, being less well-known, might more easily deceive the public. When they returned Quisling, it was because the first maneuver had obviously failed and because they thought that perhaps the official establishment of an authority qualified as governmental would give the impression that the sovereignty of the country had not been abolished. One might, however, wonder what was the reason for these artifices and why the Nazis used them, instead of purely and simply annexing the country. There is a very important reason for that. It operates for Norway and it will operate for the Netherlands.

The Nazis always preferred to maintain the fiction of an independent state and to gain a definite hold from within by using and developing the local Party. It is with this end in view that they granted the Party in Norway advantages of prestige; and if they did not act in an identical manner in Holland, their general conduct was, however, imbued with the same spirit.

This policy of the Germans in Norway is perfectly illustrated by the Norwegian law, or so-called Norwegian law, of 12 March 1942, (Norwegian *Official Gazette*, 1942, Page 215, which I offer in evidence as Document Number RF-923). I quote:

"Law concerning the Party and the State, 12 March 1942, Number 2.

"Paragraph 1. In Norway the Nasjonal Samling is the fundamental party of the State and closely linked with the State.

"Paragraph 2. The organization of the Party, its activity, and the duties of its members are laid down by the Führer of the Nasjonal Samling.

"Oslo, 12 March 1942"—signed—"Quisling, Minister President."

On the other hand, the Nazis organized on a large scale the system of the duplication of functions which existed among the higher authorities. In fact, it is the transposition of the German system, which shows a constant parallelism between the state administration and the party organizations. Everywhere German Nazis were installed to second and supervise the Norwegian Nazis who had been put in official positions.

As this point is interesting from the point of view of seizure of sovereignty and of action taken in the administration, I think I may submit two documents, which are Documents RF-924 and RF-925. These are extracts of judicial interrogations by the Norwegian Court of two high German officials of the Reich Commission at Oslo. Document Number RF-924 refers to the interrogation of Georg Wilhelm Müller, interrogation dated 5 January 1946. Wilhelm Müller was the Ministerial Director in the Ministry for Public Enlightenment and Propaganda. The information which he gives concerns more particularly the functioning of the propaganda service, but similar methods were used in a general way, as this statement admits. I quote Document RF-924:

"Question: 'In 1941 nobody in your country thought that military difficulties would arise. At that time they certainly tried to mold the Norwegian people along Nationalist Socialist lines?'

"Answer: 'They did this until the very end.'

"Question: 'Which were the practical measures for achieving this National Socialist molding?'

"Answer: 'They supported the NS Samling as far as possible; and they did it, in the first place, by strengthening the Party organization considerably.' "

I may point out that this translation into French is not first rate; it is, however, comprehensible.

"Question: 'In what way was it strengthened?'

"Answer: 'In each Fylke' "—or province—" 'picked German National Socialists were assigned to aid the Norwegian National Socialists.'

"Question: 'Were there other practical measures?'

"Answer: 'That was done in all domains, even in the field of propaganda, by the Einsatzstab propagandists placed at their disposal. This was also done in Oslo at the central offices of the NS Samling.'

"Question: 'How did these propagandists work?'

"Answer: 'They worked closely with similar Norwegian propagandists and made suggestions to them. Grebe did this by virtue of his double capacity as Chief of Propaganda in the Reichskommissariat and Chief of the Landesgruppe.'

"Question: 'How was this done?'

"Answer: 'These consultations and conferences were even arranged for the very top of the Party hierarchy. There was a man who was specially appointed for this; first Wegeler, then Neumann, then Schnurbusch, who had the task of strengthening National Socialist ideas within the NS Samling.'

"Question: 'In the Einsatzstab there were experts from the different branches whose task it was to contact Norwegians and give them useful advice. In what domains?'

"Answer: 'There were organizers, and above all instructors for the Hird, leaders of the SA and SS. Until he, himself, became leader of the Einsatzstab, we had at the head a press man, a propagandist, Herr Schnurbusch, an accountant, an expert on social welfare questions in the same way as in the NSV in Germany.' "

The Tribunal will notice in this document the name of Schnurbusch, as being that of the leader of the Einsatzstab, and of the organism for liaison with, and penetration into, the local Party. I am now going to quote an extract from the interrogation of Schnurbusch, which is found in Document Number RF-925.

THE PRESIDENT: Are you putting these documents in?

M. FAURE: Yes, Mr. President.

THE PRESIDENT: Will you say, for the purposes of the shorthand note, that you offer them in evidence?

M. FAURE: Will you excuse me? I should like to point out that I submit as evidence Document Number RF-925 as well as Document Number RF-924 of which I spoke just now.

This is from the interrogation of Heinrich Schnurbusch, leader of the liaison service in the Reich Commission on 8 January 1946 in Oslo:

"Question: 'How did the German departments try to achieve this National Socialist conversion?' "

I wish to point out to the Tribunal that I have passed over the first three questions as they are not of much interest.

"Answer: 'We sought to strengthen this movement by the means which we were accustomed to apply in Germany for leading the masses. The Nasjonal Samling benefited by having at their disposal all the means of news service and propaganda. But we soon saw that the object could not be achieved. After 25 September 1940 the public mood in Norway changed suddenly when some State Councillors were appointed as NS State Councillors, for Quisling's action in the days of April 1940 was considered treason by the Norwegian people.'

"Question: 'In what way did you assist materially the NS Samling in this propaganda? In what way did you counsel the NS Samling?'

"Answer: 'During the time I was in office, when a propaganda drive was made, it was always brought into line with the propaganda which the Germans made in Norway.'

"Question: 'Did you issue any directives for the NS Samling?'

"Answer: 'No. In my time the NS Samling worked independently in this respect, and partly even contrary to our advice. The NS Samling took the view that it understood better the Norwegian mentality, but it made many mistakes.'

"Question: 'Was financial support given?'

"Answer: 'Certainly, financial help was given, but I don't know the exact amount.' "

THE PRESIDENT: Shall we adjourn for 10 minutes?

[A recess was taken.]

M. FAURE: I should like first of all to point out to the Tribunal that, with its permission, I shall examine this afternoon the Witness Van der Essen concerning whom a formal request has already been submitted.

THE PRESIDENT: Yes, M. Faure.

M. FAURE: This witness can then be called at the beginning of the afternoon session.

The observations which I have just presented had to do with Norway.

In the Netherlands, unlike what happened in Norway, the Nazis did not utilize the local Party as an official instrument of government. The governmental authority was completely in the hands of the Reich Commissioner who set up a sort of ministry, including four German General Commissioners, respectively competent for government and justice, public security, finance, and economic affairs, and special affairs. This organization was created by a decree of 3 June 1940 (*Official Gazette* for Holland, 1940, Number 5). I point out that, as the Dutch *Official Gazette* has already been submitted in evidence to the Tribunal, I shall not again submit each of these texts, which are a part of it. I shall, therefore, simply ask the Tribunal to take judicial notice of them and to consider them as proved.

The holders of the posts of General Commissioners were appointed by the decree of 5 June 1940.

The local authorities were represented at the higher level only by the Secretaries General of the Ministries, who were entirely under the authority of the Reich Commissioner and of the General Commissioners.

The decree of 29 May 1940, which is in the Dutch *Official Gazette*, 1940, Page 8, lays down in its first article:

> "The Reich Commissioner will exercise the powers invested until now in the King and the Government. . . ."

And in Article 3:

> "The Secretaries General of the Dutch ministries are responsible to the Reich Commissioner."

If the Nazi Party did not constitute the Government, it nevertheless received the official blessing.

I shall quote to the Tribunal in this connection the decree of 30 January 1943, which likewise is in the Dutch *Official Gazette*, 1943, Page 63. I read the following passage:

> "The representative of the political will of the Dutch people is the National Socialist movement of the Netherlands. I have, therefore, decreed that all the German offices under my orders, of the administration and those of the National Socialist movement, shall maintain close contact with the leader of the Movement in order to assure the co-ordination of the tasks in carrying out important administrative measures and particularly for all matters concerning personnel."

The Tribunal knows already, for it is common knowledge, and insofar as it might be necessary through the witness who has already been heard, how outrageously untrue it was to claim that the Dutch National Socialist Party represented the political will of the people of this country.

Having commented on these two forms of utilization of the local party as agents of sovereignty, I should now like to point out to the Tribunal the main features of these usurpations which were committed by the Germans.

A first line of action is exemplified by the attempt to induce the occupied countries to participate in the war or, at the very least, to initiate recruitment for the German Army. In Norway the Nazis created the "SS Norge," a formation which later was called the "Germanske SS Norge." I submit as evidence Document Number RF-926, which is the decree of 21 July 1942, concerning the "Germanske SS Norge," and I quote Paragraph 2 of this decree, which is a Quisling decree.

> "2. 'The Germanske SS Norge' is a National Socialist order of soldiers which shall consist of men of Nordic blood and ideas. It is an independent subdivision of the Nasjonal Samling, directly under the NS Foerer (NS Leader) and responsible to him. It is, at the same time, a section of the 'Stor-Germanske SS' "—the SS of Greater Germany—"and shall help to lead the Germanic peoples towards a new future and create the basis of a Germanic fellowship."

We see again, by this example, that the interventions of the so-called Norwegian Government are perfectly obvious methods of Germanization. In order to facilitate the recruiting into this legion, the German or Norwegian Nazis did not hesitate to upset the civil legislation and to abolish the abiding principles of family rights by making a law which exempted minors from having to obtain the consent of their parents. This is a law of 1 February 1941, Norwegian *Official Gazette*, 1941, Page 153, which I submit in evidence as Document Number RF-927.

In the Netherlands the Germans were obliged to upset even more the national legislation in order to permit military recruitment. As they did not create a factitious government and as the legitimate government was still at war with the Reich, the volunteers came under Articles 101 and the following articles of the Dutch penal code, which punished those enlisted in the army of a foreign power at war with the Netherlands and likewise those who give aid to the enemy.

By reason of the *de facto* occupation of the country there was little chance of these penalties being effectively applied, but it is very curious and very revealing that the Reich Commissioner

issued a decree of 25 July 1941, Dutch *Official Gazette*, 1941, Number 135. This decree states that the taking of Dutchmen for service in the German Army, the Waffen-SS, or the Legion of Netherlands Volunteers does not bring them under the provisions of the penal texts mentioned above, and this decree is declared retroactive to 10 May 1940. It is therefore very convenient, when one commits a criminal act according to the general code, to be able to modify the law to suppress the crime in question.

Another decree of 25 July 1941, *Official Gazette* for 1941, Page 548, stipulates that enrollment in the German Army will no longer involve loss of Dutch nationality.

Finally, a decree of 8 August 1941, *Official Gazette* for 1941, Page 622, declares that the acquisition of German nationality no longer entails the loss of Dutch nationality except in cases of express renunciation. Although this last text seems to bring out a point of detail, it may be regarded as an initial attempt to create later a double Dutch and German nationality, which will fit into the general procedures for the advancement of the whole plan of Germanization.

In regard to these measures for military recruitment, I should like to state precisely the attitude of the Prosecution as a result of the examination and cross-examination of the witness, Vorrink, who was heard on Saturday. The Prosecution does not consider that the criminal character of this military recruitment is established only by the fact of having recruited persons by force or by pressure upon their will. This pressure and this constraint are an aggravating and characteristic aspect but not a necessary aspect of the criminal action which we reprehend. The fact of having recruited persons, even on a voluntary basis, in the occupied countries for service in the German Army, is considered by us as a crime. This crime is moreover punishable under the internal legislation of all these countries, whose legislation covers such acts as those committed in these countries, in accordance with the rules of law in matters of legislative competence.

It is even relatively of small importance, except for knowing all the details, whether the recruiting of traitors was favored or not by particular pressure according to the situation in which these traitors found themselves.

I should like also to indicate in a more general way, that the Prosecution does not consider that the recruiting of traitors, either for service in the Army or in other activities, is for the Nazi leaders an extenuating circumstance or an exonerating one. On the contrary, it is one of the characteristics of their criminal activity; and the responsibility of the traitors in no way exempts them from

responsibility. On the contrary, we hold against them this corruption which they attempted to spread in the occupied countries by appealing to those elements of weak morality which may be found in the population of a country and by instilling in the mind of each person the thought of possible immoral and criminal activity against his country.

This was a first line of action for German usurpation: namely, the enrollment of troops.

A second general line of action is identified with the whole of the measures designed to abolish civil liberties and to set up the Leadership Principle. I shall quote some of these measures by way of example.

In Norway, suppression of political parties, German decree of 25 September 1940, which is in the *Official Gazette* for 1940, Page 19; a decree forbidding all activity in favor of the legitimate dynasty, decree of 7 October 1940, in the *Official Gazette* for 1940, Page 10; the guarantees under the statutory rules for officials were suppressed, they could be transferred or dismissed for political reasons, German decree of 4 October 1940, Page 24. Finally, a Norwegian law of 18 September 1943, setting up a characteristic institution, that of departmental chief representing the Party, and responsible to the Minister President and to no other authority of the State (Document Number RF-928). He exercised in the department the supreme political control over all public authorities of the department.

All professions came under the system of compulsory membership with application of the Leadership Principle.

In Holland we likewise observe the suppression of elected bodies, decree of 11 August 1941, *Official Gazette* for 1941, Page 637, which confirms the decree of 21 June 1940, *Official Gazette* for 1940, Page 54; the dissolution of political parties, decree of 4 July 1941, *Official Gazette* for 1941, Page 583; creation of the Labor Front, decree of 30 April 1942, *Official Gazette* for 1942, Page 211; setting up of the Peasant Corporation, decree of 22 October 1941, *Official Gazette* for 1941, Page 838.

I have given only a few examples of this principle; and to conclude I shall quote a decree of 12 August 1941, *Official Gazette* for 1941, Page 34, which created a special judicial competence for all offenses and infringements committed against political peace and against political interests, or committed for political motives. In fact, the justices of the peace charged with exercising these oppressive powers were always chosen from among the members of the Nazi Party.

Finally a third line of action in this campaign of usurpation can be defined as a systematic campaign against the elite of the country

and against its spiritual life. In fact it is always in this sphere that the Nazis met with the greatest resistance to their designs. They attacked the universities and teaching establishments.

In Holland a decree of 25 July 1941, *Official Gazette* for 1941, Page 559, gives the administration the right to close arbitrarily all private institutions. In the Netherlands the University of Leyden was closed on 11 November 1941.

By a decree of the Reich Commissioner of 10 May 1943, *Official Gazette* for 1943, Page 127, the students were forced to sign a declaration of loyalty drawn up in the following terms:

> "The undersigned, - - - - - - -, hereby solemnly declares on his word of honor that he will conscientiously conform to the laws, decrees, and other dispositions in force in Dutch occupied territory and will abstain from any act directed against the German Reich, the German Army, or the Dutch authorities, or engage in any activity which might imperil public order in the higher teaching institutions in view of the present circumstances and danger."

In Norway rigorous measures were taken against the University of Oslo. I offer in evidence Document Number RF-933. I point out to the Tribunal that this is not in strict order and that Document Number RF-933 is the last in the document book.

This Document Number RF-933 is an article in the *Deutsche Zeitung* of 1 December 1943, reproduced in a Norwegian newspaper. It is entitled, "A Cleaning-Up Measure Necessary in Oslo; Purge in the Student World." I shall read only a few paragraphs of this article. I begin with the second paragraph:

"The students of the University of Oslo"—will the Tribunal excuse me. I shall read also the first paragraph:

> "By order of the Reich Commissioner Terboven, the SS Obergruppenführer and General of the Police Rediess made the following announcement to the students in the lecture room of the University of Oslo on Tuesday afternoon:
>
> "The students of the University of Oslo have attempted to offer resistance to the German Army of occupation and to the Norwegian Government recognized by the Reich, since the occupation of Norway, that is, since 1940."

I shall end the quotation here, and continue at Paragraph 5:

> "In order to protect the interests of the occupying power and to assure maintenance of peace and order within this country, rigorous measures are indispensable. Therefore, by order of the Reich Commissioner, I have to make known to you the following:

"1. The students of the University of Oslo will be transferred to a special camp in Germany.

"2. The women students will be dismissed from the University and must return by the quickest means to their original place of residence, where they will immediately report to the police. Until further notice they are forbidden to leave these places without permission from the police."

I break off the quotation here and continue at the last paragraph but one, on the second page of this Document Number RF-933:

"You ought to be thankful to the Reich Commissioner that other much more Draconian measures are not being applied. Moreover, thanks to this measure, most of you have been saved from forfeiting your life and wealth in the future."

As concerns religious life, the Germans multiplied their harassing methods. By way of example, I offer in evidence Document Number RF-929, which I shall read:

"Oslo, 28 May 1941: To the Commanders of the Sipo and the SD in Bergen, Stavanger, Trondheim, Tromosoe. Subject: Surveillance of Religious Services during the Whitsuntide Feasts. Incidents: none.

"It is requested that you watch the religious services and send in a report here on the result.

"BDS"—commander—"of the Sipo and the SD. Oslo. Signature: (illegible) SS Hauptsturmführer."

Now here is the report following this order to watch the church services. I offer this report in evidence as Document Number RF-930. I shall read this document, which is very short.

"Trondheim, 5 June 1941.

"The surveillance of religious services during the Whitsuntide Feasts showed no new essential points. Domprobst Fjellbu adheres to his provocative preaching, but so cleverly that he is able to excuse every phrase as applied to religious subjects and void of any political meaning."

The rest of the letter is partly burned.

Finally I should like, in order not to dwell on this matter too long, to quote two examples which show, on the one hand, the constant immorality of the German methods and, on the other hand, the justified protests to which they gave rise on the part of the most qualified authorities. The first example concerns the Netherlands.

The Dutch magistrates were roused to righteous indignation by the German practice of arbitrary detentions in concentration camps. They found the opportunity of making known their disapproval in a manner which came within the normal exercise of their juridical

functions. Thus, in connection with a particular case, the Court of Appeal at Leeuwarden rendered a decision of which I wish to read an extract to the Tribunal. This is submitted as Document Number RF-931. I shall read to you an extract from this document:

"Whereas the Court cannot declare itself in agreement in the matter of the penalty inflicted upon the accused by the Chief Judge and his presentation of motives, the Court is of the opinion that this penalty should be determined as follows:

"Whereas as regards the penalty to be inflicted:

"The Court desires to take into account the fact that for some time various penalties of detention inflicted by the Dutch Judge upon delinquents of masculine sex, contrary to legal principles and contrary to the intention of the Legislator and of the Judge, have been executed, or are being executed in camps in a manner which aggravates the penalty to a degree such as it was impossible for the Judge to foresee or even to suppose when determining the degree of the punishment.

"Whereas the Court, taking into account the possibility of this manner of executing the penalty to be inflicted at present, will abstain, for conscience sake, from condemning the suspect to a period of detention in conformity, in this case, with the gravity of the offense committed by the defendant, because the latter would be exposed to the possibility of an execution of the penalty as indicated here above.

"Whereas the Court, on the strength of this consideration, will confine itself to condemning the suspect to a penalty of detention to be determined hereafter, after deducting the time spent by him in preventive detention, and the duration of which is such that the penalty at the moment of the pronouncing of the penalty will have almost entirely expired during the period of preventive detention."

This example is especially interesting, because I now have to indicate that as a result of this decision of the Court of Appeal, the Defendant Seyss-Inquart dismissed the President of the Court by a decree of the 9th of April 1943, which is likewise submitted in evidence under the same document number, RF-931. These two documents constitute a whole.

"By virtue of paragraph 3 of my decree,"—*et cetera*—"I dismiss from his office as Counsellor of the Court of Appeal at Leeuwarden, such dismissal to take effect immediately, Doctor of Law F.F. Viehoff."—Signed—"Seyss-Inquart."

The second example which I give in conclusion will now be taken from Norway. It is a solemn protest made by the Norwegian bishops. The special occasion which called forth this protest is the

following: The Minister for Police had issued a decree, dated 13 December 1940, by which he arrogated to himself the right to suppress the obligation of professional secrecy for priests and provided that priests who refused to break the secrecy of the confession would be subjected to imprisonment by his orders.

On 15 January 1941, the Norwegian bishops addressed themselves to the Ministry of Public Education and Religious Affairs, and handed to it a memorandum. In this memorandum they made known their protests against this extraordinary demand by the police and at the same time they protested against other abuses; violent acts committed by Nazi organizations, and illegal acts in judicial matters. This protest of the Norwegian bishops is transcribed in a pastoral letter addressed to their parishes in February 1941. I submit it as Document Number RF-932. I should like to quote an extract from this document on Page 9, top of the page:

"The decree of the Ministry of Police, dated 13 December 1940, just published, gravely affects the mission of the priests. According to this decree, the obligation of professional secrecy for priests and ministers may be suppressed by the Ministry of Police.

"Our obligation to maintain professional secrecy is not only established by law, but has always been a fundamental condition for the work of the Church and of the priests in the exercise of their care of souls and in receiving the confession of persons in distress. It is an unalterable condition for the work of the Church, that a person may have absolute and unlimited confidence in the priest who is unreservedly bound by his obligation to keep professional secrecy, as it has been formulated in the Norwegian legislation and in the regulations of the Church at all times and in all Christian countries.

"To abolish this *Magna Charta* of the conscience is to strike at the very heart of the work of the Church, which is all the more serious because Paragraph 5 of the decree stipulates that the Ministry of Police may imprison the priest in question, in order to force a statement without the case having been submitted to a tribunal."

Yet all this was happening during the first year of the occupation. Already the highest spiritual authorities of Norway found themselves in the position of having not only to protest against a particularly intolerable act, but also to enunciate a judgment upon the whole of the methods of the occupation, which judgment appears on Page 16 of the pastoral letter, and which I shall read to the Tribunal (last paragraph):

"For this reason the bishops of the Church have placed before the Ministry some of the acts and official proclamations about

the government of society during these latter times, acts and proclamations which the Church finds in contradiction with the Commandments of God and which give the impression of revolutionary conditions prevailing in the country, instead of a state of occupation by which the laws are upheld as long as they are not directly incompatible with this state of occupation."

This is a very correct juridical analysis; and now, if it please the Tribunal, I should also like to read a last sentence which preceded this, on Page 16:

"When the public authority of society permits violence and injustice and exercises pressure over souls, then the Church becomes the guardian of consciences. A human soul is of more importance than the whole world."

I shall now ask the Tribunal to take the file entitled "Belgium." I point out immediately to the Tribunal that this file does not include any document book. This statement, which deals with very general facts, will be supported as being evidence by the report of the Belgian Government, which has already been submitted by my colleagues under Document Number RF-394. The section which I now take up is a general section concerning military administration in two cases, in Belgium and France; and I shall begin with the file concerning Belgium.

In Belgium the usurpations of national sovereignty by the occupying power are imputable to the military command which committed them either by direct decrees or by injunctions to the Belgian administrative authorities who in this case were the Secretaries General of the Ministries.

Concerning the setting up of this apparatus of usurpation I shall read out to the Tribunal two paragraphs of the Belgian report, Chapter 4, concerning Germanization and nazification, Page 3, Paragraph 3:

"The legal government of Belgium, having withdrawn to France, then to London, it was the Secretaries General of the Ministries, that is to say, the highest officials in the hierarchic order, who, by virtue of Article 5 of the law of 10 May 1940, exercised within the framework of their professional activity and in cases of urgency, all the powers of the highest authority."

In other words, these high officials, animated, at least during the first months of the occupation, by the desire to keep the occupying authorities as far removed as possible from the administration of the country, took upon themselves governmental and administrative powers. At the order of the Germans this administrative power after a time became a real legislative power.

This regime of the Secretaries General pleased the Germans who adopted it. In appointing to these posts Belgians paid by them they could introduce into Belgium under the appearance of legality absolutely radical reforms, which would make of this country a National Socialist vassal state.

It is interesting to note at this point that in order to strengthen their hold on the public life through the local authorities, the Germans did not hesitate by a decree of 14 May 1942, which is referred to in the official report, to suppress the jurisdictional control of the legality of the orders of the Secretaries General, which was a violation of Article 107 of the Belgian Constitution. The Belgian report states in the following paragraphs where the responsibility lies in this matter of breaches of public order, and I shall quote here the actual terms of this report on Page 4, Paragraph 3:

> "In conclusion, whether the transformation of the legal institutions be the consequence of German decrees or that of orders emanating from the Secretaries General makes no difference. It is the Germans who bear the responsibility for these, the Secretaries General being in relation to them only faithful agents for carrying out their instructions."

I think that it will likewise be interesting to read the three following paragraphs of the report, for they reveal characteristic facts as to German methods in their seizure of sovereignty.

> "If it is necessary to furnish a new argument to support this thesis further, it is sufficient to recall that the occupying power employed all means to introduce into the structure which was to be transformed, from top to bottom, devoted National Socialist agents. This was really the work of termites.
>
> "The decree of 7 March 1941, under the pretext of bringing younger men into the administration, provided for the removal of a great number of officials. They would naturally be replaced by Germanophiles.
>
> "Finally, the Germans set up at the head of the Ministry of the Interior one of their most devoted agents, who arrogated to himself, as we shall see subsequently, the right to designate aldermen, permanent deputies, burgomasters, *et cetera,* and used his rights to proceed to certain appointments of district commissioners, for instance, by putting into office tools of the enemy."

The Belgian report then analyzes in a remarkably clear manner the violations by the Germans of Belgian public order, classifying these under two headings. The first is entitled "Modifications Made in the Original Constitutional Structure."

Under this heading we find particular mention of the decree of 18 July 1940, which immediately abolished all public activity; then a series of decrees by which the Germans suppressed the election of aldermen and decided that these aldermen would henceforth be designated by the central authority. This meant the overthrow of the traditional democratic order of communal administrations.

In the same way the Germans, in violation of Article 3 of the Belgian Constitution, ordered by the decree of 26 January 1943 the absorption of numerous communes into great urban areas.

The report then mentions here the fiscal exemptions granted in violation of the Constitution, to persons engaged in the service of the German Army or the Waffen SS. We find here a fresh example of the German criminal and general methods of military recruitment in the occupied countries.

The second heading of the report reads: "Introduction into Belgian Public Life of New Institutions Inspired by National Socialism and the Idea of the State." Such institutions were, in fact, created by the German authorities. The most remarkable are the National Agricultural and Food Corporation and the Central Merchandise Offices. The report analyzes the characteristics of these institutions and proves that they aimed at destroying traditional liberties. They were organs of totalitarian inspiration in which the Leadership Principle was applied, as we have seen was the case in similar institutions in the Netherlands.

I should like now to read the brief but revealing conclusion of the Belgian report on Germanization. We think that it has been sufficiently established by the preceding statement that the Belgian Constitution and laws were deliberately violated by the German occupying power, and this with the purpose, not of assuring its own security, which is obvious, but with the skillfully premeditated intention of making of Belgium a National Socialist State and, consequently, capable of being annexed, seeing that two nationalist states that are neighbors must necessarily exclude each other, the stronger absorbing the weaker.

This policy was carried out in violation of international laws and customs, of the Declaration of Brussels of 1874, and of the Hague Regulations of 1899.

I shall not give detailed indications concerning other applications of this usurpation in connection with Belgium, because many indications have been furnished to the Tribunal already, notably in the economic statement and likewise in M. Dubost's presentation. And, moreover, as the regime in Belgium was closely bound up with the regime in France, the indications which I shall give in the two other sections of my brief will relate particularly to these two countries.

However, before concluding the presentation which I am now making, I should like to mention the abuses committed by the Germans against the universities of Belgium. We find here again the same phenomenon of hostility—very understandable of course—on the part of the doctrinaires and Nazi leaders against the centers of culture; and this hostility showed itself especially with regard to the four great Belgian universities, which have such a fine tradition of spiritual life. I must point out to the Tribunal that the observations which I intend to present on this point have been taken from the appendices to the Belgian report of which I read some extracts. I must point out that these appendices have not been submitted as documents, although they are attached to one of these originals, which marks their authenticity. I shall have these appendices translated and submitted later and I shall ask the Tribunal, therefore, to consider the indications which I shall give it as affirmations, the proof of which will be furnished, on the one hand, by the deposit of documents and, on the other hand, by oral evidence, since I have called a witness on the subject of these questions. If this method satisfies the Tribunal, and I beg to be excused for the fact that the appendices have not been actually presented with the document, I shall continue my statement on this point.

THE PRESIDENT: M. Faure, what are the appendices to which you are referring?

M. FAURE: They are documents which are in the appendix of the Belgian report. They are as follows:

The subject matter of this report is to be found in the Belgian report itself, which has already been submitted. On the other hand, another copy of the same section has been established as the original with a series of appendices. For this reason the appendices were not translated and submitted at the same time as the main report, of which this was only a part. They are appended notes which trace events that occurred in university life. But, as I indicated to the Tribunal, I propose to prove these points by the hearing of a witness. I thought, therefore, that I could make a statement which would constitute an affirmation of the Prosecution and on which I would produce oral evidence. On the other hand, I shall submit the appendices as soon as they have been translated into German, which has not yet been done.

THE PRESIDENT: Yes. The Tribunal is satisfied with the course which you propose, M. Faure.

M. FAURE: I shall mention first that in the University of Ghent the Germans undertook special propaganda among the students, with a view to germanizing these young generations. They utilized for this purpose an organization called "Genter Studenten Verband," but their efforts to develop this organization did not achieve

the success they had hoped. They set up in this university and in others a real espionage system under the cover of an ingenious formula, namely, that of "invited professors," German professors who were supposed to have been invited and who were observers and spies.

The report of one of these invited professors has been found in Belgium. This report shows the procedure adopted as well as the complete failure of the German efforts to exert influence.

In all the universities, the Germans made arrests and deported professors and students, and this action was resorted to particularly when the students refused—and rightly so—to obey the German illegal orders which compelled them to enter the labor service.

As regards the University of Brussels, it should be pointed out that this university had been, from the beginning, provided with a German Commissioner, and that 14 professors had been irregularly dismissed. Later, the University of Brussels was obliged to discontinue the courses, and this as a result of a characteristic incident:

On the occasion of the vacancy of three chairs at the university, the Germans refused to accept the nomination of the candidates proposed in the usual way, and decided that they would appoint professors whose views suited them. This clearly shows the generally applied German method of interfering in everything and putting into office everywhere agents under their influence.

On 22 November 1941 the German military administration notified the President of the University of this decision. Therefore, the university decided to go on a sort of strike and, in spite of all the efforts of the Germans, this strike of the University of Brussels lasted until the liberation.

On this question of the Belgian universities, I should like now to read something to the Tribunal. This concerns the University of Louvain. Before reading this, I must indicate to the Tribunal the circumstances.

The Germans had in this university, as in the others, imposed upon the students compulsory labor. This we already know. But what I am going to read has to do with an additional requirement which is altogether shocking.

The Germans wished to oblige the Rector of the University, Monseigneur Van Wayenberg, to give them a complete list with the addresses of those students who were liable to compulsory service and who evaded it. They wished, therefore, to impose upon the rector an act whereby he would become an informer and this under threat of very severe penalties. The Cardinal Archbishop of Malines intervened on this occasion and on 4 June 1943 addressed a letter to General Von Falkenhausen, Military Commander in Belgium. I

should like to read this letter to the Tribunal. This letter is to be found in a book which I have here and which is published in Belgium, entitled "Cardinal Van Roey and the German Occupation in Belgium." I do not submit this letter as a document. I ask the Tribunal to consider it as a quotation from a publication. This is what Cardinal Archbishop of Malines writes:

"By an oral communication, of which I have asked in vain for the confirmation in writing, the Chief of the Military Administration Reeder has informed me that in case Monseigneur the Rector of the Catholic University of Louvain should persist in refusing to furnish the list with the addresses of the first year students, the occupying authority will take the following measures:

"Close down the university; forbid the students to enroll in another university; subject all the students to forced labor in Germany and, should they evade this measure, take reprisals against their families.

"This communication is all the more surprising, as a few days previously, following a note addressed to your Excellency by Monseigneur the Rector, the latter received from the Kreiskommandant of Louvain a notification that the academic authority would have no further trouble with regard to the lists. It is true that the Chief of Military Administration Reeder informed me that this answer was due to a misunderstanding.

"As President of the Board of the University of Louvain, I have informed the Belgian bishops, who make up this board, of the serious nature of the communication which I have received; and I have the duty to inform you, in the name of all the bishops, that it is impossible for us to advise Monseigneur the Rector to hand over the lists of his students, and that we approve the passive attitude which he has observed up to now. To furnish the lists would, in effect, imply positive co-operation in measures which the Belgian bishops have condemned in the pastoral letter of 15 March 1943 as being contrary to international law, to natural rights, and to Christian morality.

"If the University of Louvain were subjected to sanctions because it refuses this co-operation, we consider that it would be punished for carrying out its duty and that however hard and painful the difficulties it would have to undergo temporarily, its honor at least would not be sullied. We believe, with the famous Bishop of Milan, St. Ambrose, that honor is above everything—'*Nihil praeferandum honestati.*'

"Moreover, Your Excellency cannot be ignorant of the fact that the Catholic University of Louvain is a dependency of the Holy See. Canonically established by the Papacy, it is under the authority and the control of the Roman Congregation of Seminaries and Universities and it is the Holy See which approved the appointment of Monseigneur Van Wayenberg as Rector Magnifique of the University. If the measures announced were to be carried out, it would constitute a violent attack on the rights of the Holy See. Consequently His Holiness the Pope will be informed of the extreme dangers which threaten our Catholic University."

I shall end here the quotation of the letter, but I must point out to the Tribunal that in spite of this protest and any considerations of simple practical interest, which the Germans might have had in maintaining correct attitude in this matter, the Rector Magnifique was arrested on 5 June 1943, and was condemned by the German military court to 18 months imprisonment.

Having recalled the painful facts which the Tribunal has just heard, I should like to observe that they might almost give us the impression that such an event as the arrest and sentence of a prelate, rector of a university, for a wrongful reason was, since there were no tragic consequences, of relatively secondary importance. But I think we should not subordinate our intellectual judgment to the direct test of our sensibility, now grown so accustomed to horrors; and if we reflect upon it, we consider that such an outrage is in itself very characteristic, and the fact that such treatment should have been considered by the Germans as the expression of justice, that is truly characteristic of the plan of Germanization with its repercussions on the world.

THE PRESIDENT: We will adjourn now.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: May it please the Court, I desire to announce that the Defendant Kaltenbrunner will be absent from this afternoon's session on account of illness.

M. FAURE: May it please the Tribunal, I should like to call the witness, Van der Essen.

THE PRESIDENT: Very well.

[The witness, Van der Essen, took the stand.]

M. FAURE: What is your name?

VAN DER ESSEN (Witness): Van der Essen.

THE PRESIDENT: Do you swear to speak without hate or fear, to say the truth, all the truth, and only the truth?

Raise your right hand and say "I swear."

VAN DER ESSEN: I swear.

THE PRESIDENT: You may sit down, if you wish.

M. FAURE: M. Van der Essen, you are a professor of history in the Faculty of Letters at the University of Louvain?

VAN DER ESSEN: Yes.

M. FAURE: You are the General Secretary of the University of Louvain?

VAN DER ESSEN: Yes.

M. FAURE: You have stayed in Belgium during the whole period of the occupation?

VAN DER ESSEN: To the end; from the end of July 1940 I never left Belgium.

M. FAURE: Can you give information on the destruction of the Library of Louvain?

VAN DER ESSEN: It will be remembered that in 1914 this library, which was certainly one of the best university libraries in Europe, containing many early printed books, manuscripts and books of the 16th and 17th centuries, was systematically destroyed by means of incendiary material by the German soldiers of the 9th Reserve Corps, commanded by General Von Ston. This time, in 1940, the same thing happened again. This library was systematically destroyed by the German Army; and in order that you may understand, I must first say that the fire began, according to all the witnesses, during the night from the 16th to the 17th of May 1940 at about 1:30 in the morning. It was on the 17th at dawn that the English Army made the necessary withdrawal maneuver to leave the Q. W. line of defense. On the other hand, it is absolutely certain

that the first German troops entered on the morning of the 17th, only about 8 o'clock. This interval between the departure of the British troops, on the one hand, and the arrival of the Germans on the other, enabled the latter to make it appear as if the library had been systematically destroyed by the British troops. I must here categorically give the lie to such a version. The library of the University of Louvain was systematically destroyed by German gunfire.

Two batteries were posted, one in the village of Corbek, and the other in the village of Lovengule. These two batteries on each side systematically directed their fire on the library and on nothing but the library. The best proof of this is that all the shells fell on the library; only one house near the library received a chance hit. The tower was hit 11 times, 4 times by the battery which fired from Lovengule, and 7 times by the battery which fired from Corbek.

At the moment when the Lovengule battery was about to begin firing the officer who commanded it asked an inhabitant of the village to accompany him into the field; when they arrived at a place from where they could see the tower of the library, the officer asked, "Is that the tower of the university Library?" The reply was "Yes." The officer insisted, "Are you sure?" "Yes," replied the peasant, "I see it every day, as you see it now."

Five minutes later the shelling began, and immediately a column of smoke arose quite near the tower. So there can be no doubt that this bombardment was systematic and aimed only at the library. On the other hand, it is also certain that a squadron of 43 airplanes flew over the library and dropped bombs on the monument.

M. FAURE: M. Van der Essen, you are a member of the official Belgian Commission for War Crimes?

VAN DER ESSEN: Yes.

M. FAURE: In this capacity you investigated the events of which you speak?

VAN DER ESSEN: Yes, indeed.

M. FAURE: The information which you have given the Tribunal, then, is the result of an inquiry which you made and evidence by witnesses which you heard yourself?

VAN DER ESSEN: What I have just stated here is most certainly the result of the official inquiry made by the Belgian War Crimes Commission, assisted by several witnesses heard under oath.

M. FAURE: Can you give information on the attempt at nazification of Belgium by the Germans, and especially the attempt to undermine the normal and constitutional organization of the public authorities.

VAN DER ESSEN: Certainly. First, I think it is interesting to point out that the Germans violated one of the fundamental principles of the Belgian Constitution and institutions, which consisted of the separation of powers, that is to say, separation of judicial powers, of executive powers, and legislative powers; because in the numerous organizations of the New Order, which they themselves created either by decree or by suggesting the creation of these organizations to their collaborators, they never made a distinction between legislative and executive powers. Also, in these organizations freedom of speech for the defense was never, or very little, respected. But what is much more important is that they attacked an organization which goes far back in our history, which dates back to the Middle Ages; I mean the communal autonomy which safeguards us and safeguards the people against any too dangerous interference on the part of the central authority. This is what happened in this domain: It would be sufficient to read, or to have read for a short time, the present day Belgian newspapers, to observe that the burgomasters, that is to say the chiefs of the communes, the aldermen of the principal Belgian towns, such as Brussels, Ghent, Liège, Charleroi, and also of many towns of secondary importance—all these aldermen and burgomasters are either in prison or about to appear before courts-martial.

That shows sufficiently, I think, that these burgomasters and these aldermen are not those who were appointed by the King and by the Belgian Government before 1940, but all of them were people who were imposed by the enemy by means of groups of collaborators, VNV or "Rexists."

It is of capital importance to establish that fact, because the burgomaster, as soon as he was directly responsible to the central authority—in other words, as soon as the Leadership Principle was applied—could interfere in all kinds of ways in the administrative, political, and social life. The burgomaster appointed the aldermen; the aldermen appointed the communal officials and employees, and the moment the burgomaster belonged to that Party and was appointed by that Party, he appointed as communal officials members of the Party who could refuse ration cards to refractory people, or order the police to give, for instance, the list of Communists, or of those suspected of being Communists; in short, they could interfere in almost any way they wished, and by every possible means, in the communal life of Belgium.

If we examine the big towns and the small towns, we can say that everywhere there was truly a veritable network of espionage and interference following the events or acts of which I have just informed you.

M. FAURE: It is true, then, to say that this meddling by the Germans with the administration of the communes constituted a seizure of Belgian national sovereignty?

VAN DER ESSEN: Certainly, since it made the fundamental principle of the Belgian constitution disappear, that is to say, the sovereignty that belongs to the nation and more especially to the Communal Council which appointed aldermen and burgomasters. From then on it was impossible for them to make themselves heard in the normal way, so that the sovereignty of the Belgian people was directly attacked by the fact itself.

M. FAURE: Since you are a professor of higher education, can you give us information concerning the interference in education?

VAN DER ESSEN: Yes, sir, certainly.

First, there was interference in the domain of elementary and secondary education through the General Secretary of Public Education, on whom the Germans exercised pressure. A commission was set up which was entrusted with the task of purging the text books. It was forbidden to use text books which mentioned what the Germans did in Belgium during the 1914-18 war; this chapter was absolutely forbidden. The booksellers and publishing houses could still sell these books, but only on the condition that the bookseller or library should tear out this chapter. As for new books which had to be reprinted or republished, this commission indicated exactly which ones should be cancelled or removed. That was serious and alarming interference with primary and secondary education.

As regards higher education, the interference was unleashed, so to speak, from the very beginning of the occupation; and first of all, for motives which I need not explain here but which are well known, in the free University of Brussels.

The Germans first imposed on the University of Brussels a German Commissioner, who thus had in his hands the whole organization of the university and even controlled it, as far as I know, from the point of view of accountancy. Moreover they imposed exchange professors. But serious difficulties began the day when, in Brussels as elsewhere, they required that they should be informed of all projects of new appointments and all new appointments of professors, in the same way as the assignment of lecture courses and other subjects taught in the university. The result was that in Brussels, by virtue of this right which they had arrogated, they wished to impose three professors, of whom two were obviously not acceptable to any Belgian worthy of the name. There was one, notably, who, having been a member of the Council of Flanders during the occupation of 1914-18, had been condemned

to death by the justice of this country and whom they wanted to impose as a professor in the University of Brussels in 1940. Under these conditions the university refused to accept this professor, and this was considered by the occupying authorities as sabotage.

As a penalty, the President of the Board of the University, the principal members of the board, the deans of the principal faculties, and a few other professors, who were especially well known as being anti-Fascists, were arrested and imprisoned in the prison of Witte with the aggravating circumstance that they were considered as hostages and that, if any act whatsoever of sabotage or resistance occurred, they, being hostages, could be shot.

As far as the other universities were concerned, as I have just said here, they wished to impose exchange professors. There were none at Louvain because we refused categorically to receive them, the more so as it appeared that these exchange professors were not, primarily, scholars who had come to communicate the result of their researches and their scientific work, but a great many of them were observers for the occupying authorities.

M. FAURE: In this connection, is it true that the Belgian authorities discovered the report made by one of these so-called "invited" professors?

VAN DER ESSEN: That is indeed the case. The Belgian authorities got hold of a report by Professor Von Mackensen, who was sent as an exchange professor to the University of Ghent. In this report—drawn up with infinite care and which is extraordinarily interesting to read because of the personal and psychological observations which it contains concerning the various members of the faculty of Ghent—in this report we see that everyone was observed and followed day by day, that his tendencies were labeled, that a note was made as to whether he was for or against the system of the occupying power, or whether he had any relations with students who were N.P. or Rexists. The slightest movements and actions of all the professors were carefully noted; and I add, with great care and precision. It was almost a scientific piece of occurred, they, being hostages, could be shot.

M. FAURE: M. Van der Essen, I described this morning to the Tribunal various incidents which occurred in the University of Louvain, of which you were the General Secretary. Therefore I should like you to tell the Tribunal briefly the actual facts connected with these incidents, especially, those connected with the imprisonment of the Rector Monseigneur Van Wayenberg.

VAN DER ESSEN: Yes, indeed, sir. Serious difficulties began in the University of Louvain after the appearance of the decree of compulsory labor of 6 March 1943, by which students of the

university were forced to accept compulsory labor. I would add, not in Reich territory, but in Belgium. But this action, which was held out to the university students as a sort of privilege, was entirely inacceptable to Belgian patriots for the simple reason that, if the university students accepted to go and work in the Belgian factories, they automatically expelled workmen, who were then sent to Germany as the students took their place.

That was the first reason why they did not wish to work for the enemy; the second was because, from a social point of view, they wanted to show solidarity with the workers, who suffered very much because the students had refused. At least two-thirds of the students of Louvain refused to do compulsory work. They became refractory, the classes became empty, they hid themselves as best they could, and several went into the Maquis.

The German authorities, when they saw the way things were going, demanded that the list of students be given to them, with their addresses, so that they could arrest them in their homes or, if they couldn't find them, they could arrest a brother, or sister, or father, or any member of the family in their place. This was the principle of collective responsibility which was applied here the same as in all other cases.

After having used gentle means, they resorted to blackmail and ended up by adopting really brutal measures. They renewed the raids, they dismissed Dr. Tschacke and Dr. Kalische, I think, and many others. They ordered searches to be made in the university offices to lay their hands on the list of students; but as this list was carefully hidden, they had to go away empty-handed. It was then that they decided to arrest the Rector of the University, Monseigneur Van Wayenberg, who had hidden the lists in a place known only to him. He declared that he alone knew the place so as not to endanger his colleagues and the members of the faculty.

One morning in June two members of the Secret Police from Brussels, accompanied by Military Police, came to the Hall. They arrested the rector in his office and transferred him to the prison of Saint-Gilles in Brussels, where he was imprisoned. Shortly afterwards he appeared before a German tribunal which condemned him to 18 months imprisonment for sabotage. To tell the truth, he was in jail for only 6 months, because the doctor of Saint-Gilles saw that the rector's health was beginning to fail and it would be dangerous to keep him longer if one wished to avoid a serious incident, also because of the many petitions by all sorts of authorities. Thus the rector was freed. However, he was forbidden to set foot on the territory of Louvain; and they enjoined the university to appoint, immediately, another rector. This was refused.

M. FAURE: Very well. Is it true to say that the German authorities persecuted, more systematically, persons who belonged to the intellectual elite?

VAN DER ESSEN: Yes, there can be no doubt as to this. I might give, as examples, the following facts:

When hostages were taken it was nearly always university professors, doctors, lawyers, men of letters, who were taken as hostages and sent to escort military trains. At the time when the resistance was carrying out acts of sabotage to railways and blowing up trains, university professors from Ghent, Liége, and Brussels, whom I know, were taken and put in the first coach after the locomotive so that, if an explosion took place, they could not miss being killed. I know of a typical case, which will show you that it was not exactly a pleasure trip. Two professors of Liége, who were in a train of this kind, witnessed the following scene: The locomotive passed over the explosive. The coach in which they were, by an extraordinary chance, also went over it; and it was the second coach containing the German guards which blew up, so that all the German guards were killed.

On the other hand, several professors and intellectuals were deported to that sinister camp of Breendonck, about which you know, some for acts of resistance, others for entirely unknown reasons; others were deported to Germany. Professors from Louvain were sent to Buchenwald, to Dora, to Neuengamme, to Gross-Rosen, and perhaps to other places too. I must add that it was not only professors from Louvain who were deported, but also intellectuals who played an important role in the life of the country. I can give you immediate proof. At Louvain, on the occasion of the reopening ceremony of the university this year, as Secretary General of the University, I read out the list of those who had died during the war. This list included 348 names, if I remember rightly. Perhaps some thirty of these names were those of soldiers who died during the Battles of the Scheldt and the Lys in 1940, all the others were victims of the Gestapo, or had died in camps in Germany, especially in the camps of Gross-Rosen and Neuengamme.

Moreover, it is certain that the Germans hated particularly the intellectuals because, from time to time, they organized a synchronized campaign in the press to give prominence to the fact that the great majority of intellectuals refused categorically to rally to the New Order and refused to understand the necessity for the struggle against bolshevism. These articles always concluded by stressing the necessity of taking measures against them. I remember well certain newspaper articles which simply proposed to send these intellectuals to concentration camps. There can be no doubt therefore that the intellectuals were deliberately selected.

M. FAURE: I shall ask you no questions on anything relating to deportations or to camps, because all that is already well known to the Tribunal. I shall ask you, when replying to the following question, not to mention deportation.

Now, my question concerns the whole of the atrocities which were committed by the Germans in Belgium and, especially, at the time of the December 1944 offensive by the German armies. Can you give information concerning these atrocities?

VAN DER ESSEN: Yes, sir. As a matter of fact, I can give you exact and detailed information, if necessary, on the crimes and atrocities committed during the offensive of Von Rundstedt in the Ardennes, because as a member of the War Crimes Commission I went there to make an inquiry, and I questioned witnesses and survivors of these massacres; and I know perfectly well, from personal knowledge, what happened.

During the Von Rundstedt offensive in the Ardennes they committed crimes which were truly abominable in 31 localities of the Ardennes, crimes committed against men, women, and children. These crimes were committed, on the one hand, as it happened elsewhere and as it happens in all wars, by individual soldiers, so I shall let that pass; but what I particularly want to stress are the crimes committed by whole units who received formal instructions, as well as crimes committed by known organizations; if I remember rightly, I think they were called Kommandos zur besonderen Verwendung, that is to say, commandos with special tasks which operated unchecked not only in the Belgian Ardennes but which also committed the same kind of crimes, carried out in the same way, in the Grand Duchy of Luxembourg.

As regards the first, the crimes committed by whole units, I should like merely to give one very typical example, in order not to take up the time of the Tribunal. It happened at Stavelot, where about 140 persons—the number varies, let us say between 137 and 140—first it was 137, then they discovered some more bodies—about 140 persons, of whom 36 were women and 22 were children, of which the oldest was 14 years and the youngest 4 years, were savagely slaughtered by German units belonging to SS tank divisions, one the Hohenstaufen Division, the other the SS Leibstandarte Adolf Hitler Division. This is what the divisions did. We have full information about this from the testimony of a soldier who took part in it. He was arrested by the Belgian Security Police. He deserted during the Von Rundstedt campaign, dressed himself as a civilian, and then worked as a laborer on an Ardennes farm. One day as he was working stripped to the waist, he was seen by Belgian gendarmes, who saw by the tattooing on

his body that he was an SS man. He was immediately arrested and interrogated.

This is the method used by the soldiers of the Hohenstaufen Division. There was a line of tanks, some were Königstiger (Royal Tigers), followed and preceded by Schützenpanzer. At a certain moment the Obersturmführer of this group stopped his men and delivered them a little speech telling them that all civilians whom they encountered should be killed. They then went back to their tanks, and as the tanks advanced along the road, the Obersturmführer would point to a house. Then the soldiers entered it with machine guns in their hands. If they found people in the kitchen, they killed them in the kitchen; if they found them sheltering in the cellar, they machine-gunned them in the cellar; if they found them on the road, they killed them on the road. Not only the Hohenstaufen Division, but also the Leibstandarte Adolf Hitler Division, and others acted in this manner on formal orders according to which all civilians were to be killed. And what was the reason for this measure? Precisely because, during the retreat in September, it was mainly in that part of the Ardennes that the resistance went into action and quite a number of German soldiers were killed during that retreat. It was therefore to revenge this defeat, to avenge themselves for the action of the resistance, that orders were given that all civilians should be killed without mercy during the offensive launched in this region.

As far as the other method is concerned, this is still more important from the point of view of responsibility, for it concerns persons commanding troops of the Sicherheitspolizei, that is to say, of the Security Police, who in most villages they came to immediately set about questioning the people as to those who had taken part in the resistance, about the secret army, where these people lived, whether they were still there or whether they had fled. In short, they had special typed questionnaires with 27 questions, always the same, which were put to everyone in the villages to which they came.

Here again I shall proceed as I did in the first case. In order not to take up too much of the Tribunal's time, I shall simply give the example of Bande, in the Arrondissement of Marche. At Bande one of these SD detachments, the officers of which said they were sent especially by Himmler to execute members of the resistance, seized all men between 17 and 32 years of age. After having questioned them thoroughly and after sorting them out in a quite arbitrary manner—they didn't keep any people belonging to the resistance, for most of them had never taken part in it; there were only four who were members of the resistance—they led them away along the road from Marche to Basteuil with their hands

raised behind their heads. When they reached a ruined house, which had been burned down in September, the officer who commanded the detachment posted himself at the entrance of the house, a Feldwebel joined him and put his hand on the shoulder of the last man of the third row who was making his way towards the entrance to the house; and there the officer, armed with a machine gun, killed a prisoner with a bullet in the neck. Then this same officer executed in this manner the 34 young men who had been kept back.

Not content with killing them, he kicked the bodies into the cellar; and then fired a volley of machine gun bullets to make sure that they were dead.

M. FAURE: M. Van der Essen, you are a historian; you have taught scholars; therefore you are accustomed to submitting the sources of history to criticism. Can you say that your inquiry leaves no doubt in your mind, that these atrocities reveal that there was an over-all plan and that instructions were certainly given by superior officers?

VAN DER ESSEN: I think that I can affirm it, I am quite convinced that there was an over-all plan.

M. FAURE: I would like to ask you a last question: I think I understood that you yourself were never arrested or particularly worried by the Germans. I would like to know if you consider that a free man, against whom the German administration or police have nothing in particular, could during the Nazi occupation lead a life in accordance with the conception a free man has of his dignity?

VAN DER ESSEN: Well, you see me here before you, I weigh 67 kilos, my height is 1 meter 67 centimeters. According to my colleagues in the Faculty of Medicine that is quite normal. Before the 10th of May 1940, before the airplanes of the Luftwaffe suddenly came without any declaration of war and spread death and desolation in Belgium, I weighed 82 kilos. This difference is incontestably the result of the occupation. But I don't want to dwell on personal considerations or enter into details of a general nature or of a theoretical or philosophical nature. I should like simply to give you an account—it will not take more than 2 minutes—of the ordinary day of an average Belgian during the occupation.

I take a day in the winter of 1943: At 6 o'clock in the morning there is a ring at the door. One's first thought—indeed we all had this thought—was that it was the Gestapo. It wasn't the Gestapo. It was a city policeman who had come to tell me that there was a light in my office and that in view of the necessities of the

occupation I must be careful about this in the future. But there was the nervous shock.

At 7:30 the postman arrives bringing me my letters; he tells the maid that he wishes to see me personally. I go downstairs and the man says to me, "You know, Professor, I am a member of the secret army and I know what is going on. The Germans intend to arrest today at 10 o'clock all the former soldiers of the Belgian Army who are in this region. Your son must disappear immediately." I hurry upstairs and wake up my son. I make him prepare his kit and send him to the right place. At 10 o'clock I take the tram for Brussels. A few kilometers out of Louvain the tram stops. A military police patrol makes us get down and lines us up—irrespective of our social status or position—in front of a wall, with our arms raised and facing the wall. We are thoroughly searched, and having found neither arms nor compromising papers of any kind, we are allowed to go back into the tram. A few kilometers farther on the tram is stopped by a crowd which prevents the tram from going on. I see several women weeping, there are cries and wailings. I make inquiries and am told that their men folk living in the village had refused to do compulsory labor and were to have been arrested that night by the Security Police. Now they are taking away the old father of 82 and a young girl of 16 and holding them responsible for the disappearance of the young men.

I arrive in Brussels to attend a meeting of the academy. The first thing the president says to me is:

> "Have you heard what has happened? Two of our colleagues were arrested yesterday in the street. Their families were in a terrible state. Nobody knows where they are."

I go home in the evening and we are stopped on the way three times, once to search for terrorists, who are said to have fled, the other times to see if our papers are in order. At last I get home without anything serious having happened to me.

I might say here that only at 9 o'clock in the evening can we give a sigh of relief, when we turn the knob of our radio set and listen to that reassuring voice which we hear every evening, the voice of Fighting France: "Today is the 189th day of the struggle of the French people for their liberation," or the voice of Victor Delabley, that noble figure of the Belgian radio in London, who always finished up by saying, "Courage, we will get them yet, the Boches!" That was the only thing that enabled us to breathe and go to sleep at night.

That was an average day, a normal day of an average Belgian during the German occupation. And you can well understand that we could hardly call that time the reign of happiness and felicity

that we were promised when the German troops invaded Belgium on 10 May 1940.

M. FAURE: Excuse me, M. Van der Essen. The only satisfaction that you had was to listen to the London radio; this was punished by a severe penalty, if you were caught, I suppose?

VAN DER ESSEN: Yes, it meant imprisonment.

M. FAURE: Thank you.

THE PRESIDENT: Are you finished, M. Faure?

M. FAURE: No more questions, Mr. President.

THE PRESIDENT: General Rudenko? The American and British prosecutors?

[Each indicated that he had no question.]

THE PRESIDENT: Do any of the defendants' counsel wish to ask any questions?

DR. EXNER: You have been speaking about the university library at Louvain. I should like to ask something: Were you yourself in Louvain when the two batteries were firing at the library, and at the library only, in 1940?

VAN DER ESSEN: I was not in Louvain, but I should say this: Louvain was in the K. O. line, that is in the very front line; and the population of Louvain was obliged by the British military authorities to evacuate the town on the 14th so that nearly all the inhabitants of Louvain had left at the time when these events took place and only paralytics and sick persons, who could not be transported and who had hidden in their cellars, were left; but what I said concerning these batteries, I know from the interrogation of the two witnesses who were on the spot just outside Louvain. The library was not set on fire from within, but shelled from without. And these witnesses of whom I speak lived in these two villages outside the town where the batteries were located.

DR. EXNER: Were there any Belgian or British troops still left in the town?

VAN DER ESSEN: The Belgian troops were no longer there. They had been replaced by the British troops when the British had taken over the sector and at the time when the library was seen to be on fire. The first flames were seen in the night of the 16th to the 17th at 1:30 in the morning. The British troops had left. There remained only a few tanks which were operating a withdrawal movement. These fired an occasional shot to give the impression that the sector was still occupied by the British Army.

DR. EXNER: So there were still British troops in the town when the bombardment started?

VAN DER ESSEN: There were no longer any British troops; there were merely a few tanks on the hills outside Louvain in the direction of Brussels, a few tanks which, as I said, were carrying out necessary maneuvers for withdrawal.

I would have liked to add a few words and to say to the very honorable Counsel for the Defense that, according to the testimony of persons who were in the library—the ushers and the janitors—not a single British soldier ever set foot in the library buildings.

DR. EXNER: That is not surprising. At the time the German batteries were firing were there still British batteries or Belgian batteries firing?

VAN DER ESSEN: No.

DR. EXNER: So all was quiet in the town of Louvain; the troops had left; the enemy was not there yet, and the batteries didn't fire?

VAN DER ESSEN: That was the rather paradoxical situation in Louvain; there was a moment when the British had left and the Germans had not yet arrived; and there remained only the few ill persons, the few paralytics who could not be moved and who were left behind in cellars. A few other persons remained too: the Chief of the Fire Service and Monseigneur Van Wayenberg, the Rector of the University, who had brought the dead and the dying from Brussels to Louvain in the firemen's car and made the journey several times. There was also my colleague, Professor Kennog, a member of the Faculty of Medicine who had taken over the direction of the city.

DR. EXNER: Do you know where these German batteries were located?

VAN DER ESSEN: Yes, indeed. One was located at Corbek and the other at Lovengule, one on the west side and one on the north side. The only shell hits on the tower of the library were four hits from the east side and seven from the north side. If there had still been British or Belgian batteries, the shells would have come from the opposite side.

DR. EXNER: Can you tell me anything about the caliber of these batteries?

VAN DER ESSEN: Yes, we saved the shells and at present they are in the Library of Louvain, or rather in what serves as a library for the university. There are four shells and two or three fragments of shells.

DR. EXNER: And do you know the name of the peasant who was supposed to have been asked by a German officer whether that was really the University of Louvain? Do you know the peasant personally?

VAN DER ESSEN: Yes, indeed, his name is M. Vigneron.

DR. EXNER: Do you know the peasant yourself? Do you know him?

VAN DER ESSEN: I do not know him personally. It was the librarian of the university who had a conversation with him and who induced the War Crimes Commission to interrogate this peasant.

DR. EXNER: You are a member of that commission yourself?

VAN DER ESSEN: Yes, I am ready to declare that I took no direct part in the inquiry concerning the Library of Louvain, just as Monseigneur the Rector and the librarian took no active part in the inquiry concerning the Library of Louvain. It was made by an officer of the judicial delegation who acted alone and quite independently upon the order of the Prosecutor of Louvain, and we kept entirely out of the matter.

DR. EXNER: Have you seen the official files of this commission?

VAN DER ESSEN: Yes, certainly.

DR. EXNER: I am surprised they weren't brought here. Tell me, why did the director of the library or the person who was directly concerned not go, after the occupation of the town, to the mayor or to the commander of the town?

VAN DER ESSEN: I don't think I understand the question very well.

DR. EXNER: When the German Army came, a town commander was appointed. Why didn't the mayor of the town, or the Director of the University Library go to the town commander and tell him about these things?

VAN DER ESSEN: Why didn't he tell him about these things—for the very simple reason that at that time everything was in complete disorder and there was hardly anybody left in the town, and on the other hand as soon as the German Army arrived, it systematically closed the entrance gate of the library so that the Belgians could not make any inquiry. Then two German inquiry commissions came upon the scene. The first worked on 26 May 1940 with an expert, Professor Kellermann of the School of Technology in Aachen, accompanied by a Party man in a brown shirt. They examined what was left and they summoned before them as witnesses the Rector of the University and the Librarian. From the very beginning of the inquiry they wished to force the rector and the librarian to declare and admit that it was the British who had set fire to the library. And as a proof, this expert showed shell cases saying, "Here, sniff this, it smells of gasoline and shows that chemicals were used to set fire to the library." Whereupon the

Rector and the Librarian of the University said to him, "Where did you find this shell case, Mr. Expert?" "In such and such a place." "When we went by that place," said the rector, "it wasn't there." It had been placed there by the German expert. And I will add, if you will permit me, because this is of considerable importance, that a second inquiry commission came in August 1940, presided over by a very distinguished man, District Court of Appeal Judge Von Neuss. He was accompanied this time by the expert who had directed the inquiry into the firing of the Reichstag. This commission again examined everything, and before the rector and another witness, Krebs, from the Benedictine Abbey of Mont-César, they simply laughed at the conclusions of the first commission, and said they were ridiculous.

DR. EXNER: You have said that the library building had towers. Do you know whether there were artillery observers in these towers?

VAN DER ESSEN: You ask whether there were artillery observers? All I can say is that the rector had always opposed this from the beginning, and he certainly would have opposed any attempt of this kind, knowing that the presence of artillery observers in the tower would obviously provide the enemy with a reason to fire on the library. The rector knew this and he always said to me, "We must be extremely careful to see that British soldiers or others who might take the sector do not go up in the tower." I know from the statements of the janitor that no Englishman, no British soldier, went into the tower. That is absolutely certain. As for Belgians, I must confess that I cannot answer your question, as I don't know.

DR. EXNER: It would not be so very amazing, would it, if the university library had been hit by German artillery. After all, it has happened that the libraries of the Universities of Berlin, Leipzig, Munich, Breslau, Cologne, *et cetera,* have been hit. The only question is whether this was done deliberately, and here it occurs to me that the peasant . . .

VAN DER ESSEN: The peasant . . .

DR. EXNER: I would like to ask you: Was there any mention in these inquiries as to the motive which might have induced the German Army to make this an objective?

VAN DER ESSEN: All the evidence seems to indicate, and this was the conclusion arrived at by the commission, that the motive—I will not say the main motive, because there is no certainty in this sort of thing—that the motive which is very probable, almost certain, for the destruction of the library was the German Army's desire to do away with a monument which commemorates the Treaty of Versailles. On the library building there was a virgin wearing a helmet crushing under her foot a dragon which symbolized the

enemy. Certain conversations of German officers gave the very clear impression that the reason why they wished to set fire systematically to this building was their desire to get rid of a testimony of the defeat in the other war, and above all, a reminder of the Treaty of Versailles. I may add that this is not the first time that the Germans have destroyed the University of Louvain.

DR. EXNER: You believe that the commander of that battery knew that?

VAN DER ESSEN: There is very interesting testimony which I should like to submit to the honorable Counsel for the Defense. On the day when the batteries were installed, the two batteries which I mentioned, I spoke to a tax collector, a civil servant, who lived in a villa on the road to Roosweek, a few kilometers from Louvain. That afternoon some German high ranking officers came to his house to ask for hospitality. These officers had with them a truck with all the necessary radio apparatus for sending wireless orders to the German artillery to fire. These officers installed themselves in his house, and dinner was naturally served to them, and they invited him to sit with them. After hesitating a moment, he accepted, and during the meal there was a violent discussion. The officers said, "These Belgian swine"—excuse my using this expression, but they used it—"at any rate they did put that inscription on the library." They were referring to the famous inscription *"Furore Teutonica"* which in fact was never on the library; but all the German officers were absolutely convinced that this inscription *"Furore teutonica diruta, dono americano restituta"* (destroyed by German fury, restored by American generosity) was on the building, whereas, in fact, it never has been there. However, I am quite willing to admit that in Germany they might have believed that it was there; and the very fact that there should have been a discussion among the officers in command of these two batteries, seems to prove that if they directed the fire onto the library, it was in order to destroy this monument. It was probable that they wanted to get rid of a monument which, according to their idea, bore an inscription which was insulting to the German Army and the German people. That is the testimony which I can give to the honorable Counsel for the Defense. I give it as it is.

DR. EXNER: You mean that the captain who commanded this battery knew about that inscription! I don't believe it.

VAN DER ESSEN: Certainly.

DR. EXNER: Thank you.

DR. STAHMER: Witness, you have said that 43 airplanes flew over the library and dropped bombs on it. As you told us yourself, in reply to Professor Exner's question, you were not in the town at the time; where did you get that information?

VAN DER ESSEN: As I have already said, it is not my testimony which I am giving here, because for my part I have none; but it is the testimony of the lawyer, Davids, who had a country house at Kesseloo.

This lawyer went out in the morning to look at the sky. He had a considerable number of refugees in his home, among them women and children, and as airplanes were continually overhead he had gone out in the morning to see what was going on. He saw this squadron of airplanes which he counted—remember he was an old soldier himself—and there were 43 which were flying in the direction of the library; and when they arrived over the library, exactly over the gable at the farthest point from the house of the witness, they dropped a bomb, and he saw smoke immediately arise from the roof of the library. That is the testimony on which I base the statement I just made.

DR. STAHMER: So it was just one bomb that hit the library?

VAN DER ESSEN: We must distinguish here, sir, between artillery fire and bombs which are dropped by planes. From a technical point of view, it seems absolutely certain that a bomb from a plane hit the library, because the roof has metal covering and this metal roofing is quite level, except in one part where it caves in. We consulted technicians, who told us that a metallic surface would never have sunk in to such an extent if it had been hit by artillery fire and could only have been caused by a bomb from a plane.

DR. STAHMER: How many bombs in all were dropped by airplanes?

VAN DER ESSEN: As the witness was at a height dominating the Louvain area from where he could see the library on the plain, it was impossible for him to count exactly the bombs which these planes dropped. He only saw the bombs fall. Then he saw the smoke which arose from the roof of the library. That's all I have to say concerning this point.

DR. STAHMER: How many bomb hits were counted in the city?

VAN DER ESSEN: On this point I can give you no information, but I know that some airplanes passed over the library quarters in a straight line going north to south. These bombs, at that time, in May 1940, damaged, but not very seriously, the Higher Institute of Philosophy, the Institute of Pharmacy, and a few other university buildings; also a certain number of private houses.

DR. STAHMER: When were the bombs dropped, before the artillery fire or afterwards?

VAN DER ESSEN: The bombs were dropped before and afterwards. There were some air raids. I myself was present during a

terrible air raid on the afternoon of 10 May 1940 by a squadron of seven planes. I am not a military technician, but I saw with my own eyes the planes which dive-bombed the Tirlemont Bridge. The result of this bombing was that a considerable number of houses were destroyed and 208 persons killed on the spot, on the afternoon of 10 May 1940.

[A recess was taken.]

THE PRESIDENT: Do any of the other Defense Counsel wish to cross-examine?

HERR BABEL: Witness, when did you last see the university building; that is, before the attack?

VAN DER ESSEN: Before the fire? I saw it on 11 May 1940.

HERR BABEL: That is to say, before the attack?

VAN DER ESSEN: Before the attack.

HERR BABEL: Was it damaged at that time, and to what extent?

VAN DER ESSEN: On 11 May absolutely nothing had happened to the library. It was intact. Until the night of the 16th to 17th of May, when I left, there was absolutely no damage.

HERR BABEL: Apart from the hits on the tower, did you notice any other traces of artillery fire on the building?

VAN DER ESSEN: On the building I don't think so. There were only traces of artillery fire . . .

HERR BABEL: From the fact that only the tower had been hit, couldn't it be thought that the tower and not the building was the target?

VAN DER ESSEN: When I said that the tower was struck, I meant only the traces that could be seen on the walls, on the balcony of the first story, and on the dial of the clock. Apart from that, nothing could be seen on the building for the simple reason that the building had been completely burned out inside and nothing could be seen on the charred walls. But it is absolutely certain that either a bomb from a plane or an artillery shell—I personally think it was the latter—hit the building on the north side, after the fire. The trace of shell fire can be seen very visibly. It is just here that the fire began. Witnesses who saw the fire of the Abbey of Mont César. . . .

HERR BABEL: After the fire, when did you see the building for the first time?

VAN DER ESSEN: After the fire, in July 1940.

HERR BABEL: That is, much later?

VAN DER ESSEN: Yes, but still in the same condition. Nothing had been done to it. It was still as it was originally.

HERR BABEL: Do you know whether, while the building was burning, an attempt was made to stop the fire and save the building?

VAN DER ESSEN: It is absolutely certain that attempts were made to stop the fire. The Rector of the University, Monseigneur Van Wayenberg, told me himself and has stated that he sent for the firemen, but the firemen had gone. Only the chief and two members of the fire brigade were left, and all the water mains at that time were broken as a result of the bombardment. There was no water supply for several days.

HERR BABEL: Did German troops take part in these attempts to save the building?

VAN DER ESSEN: No, they were not there yet.

HERR BABEL: How do you know that? You weren't there.

VAN DER ESSEN: But the Rector of the University did not leave the town of Louvain. The rector was there and so was the librarian.

HERR BABEL: Did you speak to the rector on this question, as to whether German troops took part in the attempt to save the building?

VAN DER ESSEN: I spoke to the rector and to the librarian. In my capacity as General Secretary of the University I discussed with the rector all general questions concerning the university. We discussed this point especially, and he told me categorically that no soldier of the German Army tried to fight the fire.

HERR BABEL: You also have spoken about the resistance movement. Do you know whether the civilian population was called upon to resist the German troops?

VAN DER ESSEN: Where? In the Ardennes?

HERR BABEL: In Belgium?

VAN DER ESSEN: In Belgium the resistance was mainly composed of the secret army, which was a military organization with responsible and recognized commanders, and wore a distinctive badge so that they could not be confused with simple *francs-tireurs.*

HERR BABEL: Do you know how many German soldiers fell victims to the resistance movement?

VAN DER ESSEN: How German soldiers fell victims to this resistance? I know very well because everywhere in the Ardennes the resistance went into action, and legally, with chiefs at their head, carrying arms openly, and with distinctive badges. They openly attacked the German troops from the front.

HERR BABEL: That was not my question. I asked you if you knew roughly how many German soldiers became victims of that resistance movement?

VAN DER ESSEN: I don't understand what is implied by the question of the honorable Counsel for the Defense.

HERR BABEL: That is not for you to judge, it is for the Tribunal.

VAN DER ESSEN: Does the honorable Counsel for the Defense mean the events of the Ardennes which I alluded to a while ago, or does he speak in a quite general sense?

HERR BABEL: The witness in his statements had himself brought up the question of the resistance movement, and that is why I asked whether the witness knows . . .

THE PRESIDENT: Dr. Babel, the witness has already answered the question by saying that he cannot say how many Germans were killed by the resistance movement.

HERR BABEL: But he can say whether a certain number of Germans did fall victims to the resistance.

VAN DER ESSEN: There were real battles.

HERR BABEL: The witness will also be able to confirm that the members of the resistance are today considered heroes in Belgium. From what we have read in the papers and from what has been brought up here, these people who were active in the resistance movement are now considered heroes. At least I could draw that conclusion.

THE PRESIDENT: Will you please continue your examination.

HERR BABEL: Witness, you have said, if I understood you correctly, that you lost 15 kilograms weight.

VAN DER ESSEN: Yes, indeed.

HERR BABEL: What conclusion did you draw from that fact? I could not quite understand what you said.

VAN DER ESSEN: I simply meant to say that I lost these 15 kilos as a result of the mental suffering which we underwent during the occupation, and it was an answer to a question of M. Faure on whether I considered this occupation compatible with the dignity of a free man. I wanted to answer "no," giving the proof that as a result of this occupation we suffered much anguish, and I think the loss of weight is sufficient proof of this.

HERR BABEL: During the war, I also, without having been ill, lost 35 kilos. What conclusion could be drawn from that, in your opinion?

[Laughter.]

THE PRESIDENT: Go on, Dr. Babel, we are not interested in your experiences.

HERR BABEL: Thank you, Sir. That was my last question.

THE PRESIDENT: Does any other Counsel wish to ask any questions? *[There was no response.]* M. Faure?

M. FAURE: I have no questions.

THE PRESIDENT: The witness may retire.

[The witness left the stand.]

M. FAURE: I ask the Tribunal kindly to take the presentation file and the document book constituting the end of the section on the seizure of sovereignty, which bears the title "France."

France, like Belgium, was placed under the regime of the military occupation administration. There was, moreover, in France a diplomatic representation. Finally, it must be noted that the police administration always played an important role there. It became increasingly important and was extended, particularly during the period which followed the appointment of General Oberg in 1942.

As regards this last part of my section on the seizure of sovereignty, I should like to limit myself to mentioning a few special features of these usurpations in France and certain original methods employed by the Germans in this country, for this question has already been extensively dealt with, and will be further dealt with by me under the heading of consequences of German activities in France.

I wish to draw the attention of the Tribunal to four considerations. First, the German authorities in France, at the very beginning, got hold of a special key to sovereignty. I speak of the splitting up of the country into five different zones. This splitting up of the country by the Germans compensated to a certain extent for the special situation which the existence of unoccupied French territories created for them.

I have already indicated that the Armistice Convention of 22 June, which has already been deposited with the Tribunal, provided for the establishment of a line of demarcation between the occupied zone and the so-called unoccupied zone. It might have been thought at that time that this demarcation between the occupied and the unoccupied zone was chiefly drawn to meet the necessity of military movements in the occupied zone. It might also have been concluded that the separation of the zones would be manifested only through the exercise in the occupied zone of the ordinary rights of an armed force occupation. I have already had occasion to quote to the Tribunal a document, the testimony of M. Léon Noël, which contained the verbal assurances given in this

respect by General Keitel and by General Jodl, who are now the defendants before you bearing these names.

Now, in fact, this demarcation of zones was interpreted and applied with extreme rigor and in a manner that was wholly unforeseen. We have already seen the far reaching consequences of this from the point of view of the economic life of the country. There were also serious consequences from the point of view of local administration, which was continually hampered in its tasks, and from the point of view of the life of the population, which could move from one part of French territory to another only with great difficulty. In this way the Germans acquired a first means of pressure on the French authorities. This means of pressure was all the more effective as it could be used at any time and was very elastic. At times the Germans could relax the rules of separation of the zones, at others they could apply them with the greatest severity.

By way of example, I quote an extract from a document, which I present in evidence under the Document Number RF-1051.

This document is a letter of 20 December 1941 addressed by Schleier of the German Embassy to the French Delegate De Brinon, a letter concerning passes to German civilians wishing to enter the unoccupied zone. The French authorities of the *de facto* government had protested against the fact that the Germans obliged the French authorities to allow any person provided with German passes to enter the unoccupied zone where they could take on any kind of work, particularly spying, as one may imagine.

The letter which I quote is in answer to this French protest, and I wish to mention only the last paragraph which is the second paragraph on page 2 of this Document Number 1051.

> "In case the French Government should create difficulties concerning requests for passes presented with the German approval, it will no longer be possible to exercise that same generosity as shown hitherto when granting passes to French nationals."

But what I have just said is only a first point concerning the division of the country. This first division had as basis an instrument which was the Armistice Convention, although this basis was exceeded and was contestable. On the other hand, the other divisions which I am going to mention were simply imposed by the Germans without warning of any kind, and without the enunciation of any plausible pretext.

I must recall that a first supplementary division was that which separated the annexed Departments of the Haut-Rhin, the Bas-Rhin, and the Moselle from the rest of France; and in this connection I have already proved that they had been really annexed.

A second division affected the Departments of Nord and the Pas-de-Calais. These departments were in fact attached to the German Military Administration of Belgium. This fact is shown by the headings of the German Military Command decrees, which are submitted to the Tribunal in the Belgian *Official Gazette*. Not only did this separation exist from the point of view of the German Military Command Administration, but it also existed from the point of view of the French Administration. This last mentioned administration was not excluded in the departments under consideration, but its communications with the central services were extremely difficult.

As I do not wish to develop this point at length, I should like simply to quote a document which will serve as an example, and which I submit as Document Number RF-1052. This is a letter from the military commander under the date of 17 September 1941, which communicates his refusal to re-establish telegraphic and telephonic communications with the rest of France. I quote the single sentence of this letter:

> "Upon decision of the High Command of the Army it is so far not yet possible to concede the application for granting direct telegraphic service between the Vichy Government and the two departments of the North."

A third division consisted in the creation within the unoccupied zone of a so-called forbidden zone. The conception of this forbidden zone certainly corresponded to the future projects of the Germans as to the annexation of larger portions of France. In this connection I produced documents at the beginning of my presentation. This forbidden zone did not have any special rules of administration, but special authorization was required to enter or to leave it. The return to this zone of persons who had left it in order to seek refuge in other regions was possible only in stages, and with great difficulty. Administrative relations, the same as economic relations between the forbidden zone and the other zones were constantly hampered. This fact is well known. Nevertheless, I wish to quote a document also as an example, and I submit this document, Number RF-1053. It is a letter from the military commander, dated 22 November 1941, addressed to the French Delegation. I shall simply summarize this document by saying that the German Command agreed to allow a minister of the *de facto* government to go into the occupied zone, but refused to allow him to go into the forbidden zone.

In order that the Tribunal may realize the situation of these five zones which I have just mentioned, I have attached to the document book a map of France indicating these separations. This map of France was numbered RF-1054, but I think it is not necessary for me to produce it as a document properly speaking. It is intended to enable the Tribunal to follow this extreme partitioning by looking,

first at the annexed departments, and then at Nord and the Pas-de-Calais, the boundaries of these departments being indicated on the map, then at the forbidden unoccupied zone, which is indicated by a first line; and, finally, the line of demarcation with the unoccupied zone. This is, by the way, a reproduction of the map which was published and sold in Paris during the occupation by Publishers Girard and Barère.

To conclude this question of the division I should like to remind the Tribunal that on 11 November 1942 the German Army forces invaded the so-called unoccupied zone. The German authorities declared at that time that they did not intend to establish a military occupation of this zone, and that there would simply be what was called a zone of operations.

The German authorities did not respect this juridical conception that they had thought out any more than they had respected the rules of the law of the occupation; and the proof of this violation of law in the so-called operational zone has already been brought in a number of circumstances and will be brought again later in the final parts of this presentation.

Apart from this division, the inconveniences of which can well be imagined for a country which is not very extensive and whose life is highly centralized, I shall mention the second seizure of sovereignty, which consisted in the control by the Germans of the legislative acts of the French *de facto* government.

Naturally, the German military administration, in conformity with its doctrine, constantly exercised by its own decrees, a real legislative power in regard to the French. On the other hand—and it is this fact which I am dealing with now—in respect to the French power the sovereignty of which the Germans pretended still to recognize, they exercised a veritable legislative censorship. I shall produce several documents by way of example and proof of this fact.

The first, which I submit as Document Number RF-1055, is a letter from the Commander-in-Chief of the Military Forces in France to the French Delegate General; the letter is dated 29 December 1941. We see that the signature on this letter is that of Dr. Best, of whom I spoke this morning in connection with Denmark, where he went subsequently and where he was given both diplomatic and police functions. I think it is not necessary for me to read the text of this letter. I shall read simply the heading: "Subject: Bill Concerning the French Budget of 1942, and the New French Finance Law."

The German authorities considered that they had the power to take part in the drawing up of the French *de facto* government's budget, although this bore no relation to the necessities of their military occupation. Not only did the Germans check the contents of the laws prepared by the *de facto* government, but they made

peremptory suggestions. I shall not quote any document on this point at the moment, as I shall be producing two: One in connection with propaganda and the other in connection with the regime imposed upon the Jews.

The third seizure of sovereignty which the Germans exercised consisted in their intervention in the appointment and assignment of officials. According to the method which I have already followed, I submit, on this question, documents by way of example. First I submit a document which will be Document Number RF-1056, a letter of 23 September 1941, from the Commander-in-Chief Von Stülpnagel to De Brinon. This letter puts forth various considerations, which it is not necessary to read, on the sabotage of harvests and the difficulties of food supplies. I read the last paragraph of Document RF-1056.

> "I must, therefore, peremptorily demand a speedy and unified direction of the measures necessary for assuring the food supplies for the population. A possibility of achieving this aim I can see only by uniting both ministries in the hands of one single and energetic expert."

It was, therefore, a case of interference on the very plane of the composition of a ministry, of an authority supposedly governmental. As regards the control of appointments, I produce Document Number RF-1057, which is a letter from the Military Command of 29 November 1941. I shall simply summarize this document by indicating that the German authorities objected to the appointment of the President of the Liaison Committee for the Manufacture of Beet Sugar. You see, therefore, how little this has to do with military necessities.

I next produce Document Number RF-1058, which is likewise a letter from the Military Command. It is brief and I shall read it by way of example:

> "I beg you to take the necessary measures in order that the Subprefect of St. Quentin, M. Planacassagne, be relieved of his functions and replaced as soon as possible by a competent official. M. Planacassagne is not capable of carrying out his duties."

I shall now quote a text of a more general scope. I produce Document Number RF-1059, which is a secret circular of 10 May 1942, addressed by the Military Command Administrative Staff to all the chief town majors. Here again we find the signature of Dr. Best.

> "Control of French policy as regards personnel in the occupied territories.

"The remodelling of the French Government presents certain possibilities for exercising a positive influence on French police in the occupied territories as regards personnel. I, therefore, ask you to designate those French officials, who, from the German point of view, appear particularly usable and whose names could be submitted to the French Government when the question of appointing holders for important posts arises."

Thus we see in the process of formation this general network of German control and German usurpation. I now produce Document Number RF-1060. This document is an interrogation of Otto Abetz, who had the function of German ambassador in France. This interrogation took place on 17 November 1945 before the Commissioners Berge and Saulas at the General Information Bureau in Paris. This document confirms German interferences in French administration and likewise gives details about the duplications of these controls by the military commander and the Gestapo. I quote:

"The Military Commander in France, basing himself on the various conventions of international law"—this is Otto Abetz who is speaking and it is not necessary to say that we in no way accept his conception of international law—"considered himself responsible and supreme judge for the maintenance of order and public security in the occupied zone. This being so, he claimed the right to give his approval for the appointment or the retaining of all French officials nominated to occupy posts in the occupied zone. As regards officials residing in the free zone who were obliged by reason of their functions to exercise them subsequently in the occupied zone, the Military Commander also stressed the necessity for his approval of their nomination. In practice the Military Commander made use of the right thus claimed only when the officials were nominated and solely in the sense of a right to veto, that is to say, he did not intervene in the choice of officials to be nominated and contented himself with making observations on certain names proposed. These observations were based on information which the Military Commander received from his regional and local commanders, from his various administrative and economic departments in Paris, and from the police and the Gestapo, which at that time were still under the authority of the Military Commander.

"From 11 November 1942 on, this state of things changed because of the occupation of the free zone. The German military authorities settled in this zone demanded that they should give their opinion in regard to the nomination of

officials in all cases where the security of the German Army might be affected. The Gestapo for its part acquired in the two zones a *de facto* independence with regard to the regional and local military chiefs and with regard to the Military Commander. It claimed the right to intervene in connection with any appointment which might affect the carrying out of their police tasks.

"Having been recalled to Germany from November 1942 to December 1943, I did not myself witness the conflicts which resulted from this state of things and which could not fail to compromise in the highest degree the so-called sovereignty of the Vichy Government. When I returned to France the situation was considerably worse because the Gestapo claimed, in the occupied as well as in the unoccupied zone, the right to make the nomination of prefects subject to its consent. It even went so far as to propose itself the officials to be nominated by the French Government. Seconded by me, the Military Commander took up again the struggle against these abusive demands and succeeded in part in restoring the situation to what it was before November 1942 . . . ."

The document which I have just read constitutes a transition to the fourth consideration which I should like to submit to the Tribunal. In putting this consideration I should like to stress the juxtaposition and the collaboration of the various agents of usurpation, that is to say, the military command, the embassy, and the police. As regards the latter I shall deal at greater length with its role in the last part of my brief.

With regard to the setting up of the German Embassy in France, I produce before the Tribunal Exhibit Number RF-1061. This document was in my file as a judicial translation of a judicial document in the file concerning Otto Abetz in Paris. On the other hand, it is also contained in the American documentation and bears the Document Number 3614-PS. It has not, however, as yet been submitted to the Tribunal. It deals with the official appointment of Otto Abetz as ambassador. I should like to read this Document RF-1061.

"Ministry of Foreign Affairs, 3 August 1940.

"In answer to a question of the General Quartermaster, addressed to the High Command of the Armed Forces and transmitted by the latter to the Ministry of Foreign Affairs, the Führer had appointed Abetz, up to now minister, as ambassador and upon my report has decreed the following:

"I. Ambassador Abetz has the following functions in France:

"1. To advise the military agencies on political matters.

"2. To maintain permanent contact with the Vichy Government and its representatives in the occupied zone.

"3. To influence the important political personalities in the occupied zone and in the unoccupied zone in a way favorable to our intentions.

"4. To guide from the political point of view the press, the radio, and the propaganda in the occupied zone and to influence the responsive elements engaged in the molding of public opinion in the unoccupied zone.

"5. To take care of the German, French, and Belgian citizens returning from internment camps.

"6. To advise the secret military police and the Gestapo on the seizure of politically important documents.

"7. To seize and secure all public art treasures and private art treasures, and particularly art treasures belonging to Jews, on the basis of special instructions relating thereto.

"II. The Führer has expressly ordered that only Ambassador Abetz shall be responsible for all political questions in Occupied and Unoccupied France. Insofar as military interests are involved by his duties, Ambassador Abetz shall act only in agreement with the Military Command in France.

"III. Ambassador Abetz will be attached to the Military Commander in France as his delegate. His domicile shall continue to be in Paris as hitherto. He will receive from me instructions for the accomplishment of his tasks and will be responsible solely to me. I shall greatly appreciate it if the High Command of the Armed Forces (the OKW) will give the necessary orders to the military agencies concerned as quickly as possible.

"Signed: Ribbentrop."

This document shows the close collaboration that existed between the military administration and the administration of foreign affairs, a collaboration which, as I have already said on several occasions, is one of the determining elements for establishing responsibility in this Trial, a collaboration of which I shall later on give examples of a criminal character.

I now wish to mention to the Tribunal that I eliminate the production of the next document which was numbered RF-1062. Although I am personally certain of the value of this document which comes from a French judicial file, I have not the original German text. This being so, the translation might create difficulties, and it is naturally essential that each document produced should present incontestable guarantees. I shall therefore pass directly to the last document, which I wish to put in and which I submit as Document

Number RF-1063. This is a detail, if I may call it such, concerning this problem of the collaboration of the German administrations, but sometimes formal documents concerning details may present some interest. It is a note taken from the German archives in Paris, a note dated 5 November 1943, which gives the distribution of the numbering of the files in the German Embassy. I shall read simply the first three lines of this note: "In accordance with the method adopted by the military administration in France, the files are divided into 10 chief groups." There follows the enumeration of these methods and groups used for the classification of the files. I wish simply to point out that under their system of close collaboration the German Embassy, a civil service department of the foreign office, and the Military Command had adopted filing systems under which all records and all files could be kept in the same way.

I have now concluded my second section which was devoted to the general examination of this seizure of sovereignty in the occupied territories, and I should like to point out that these files have been established with the collaboration of my assistant, M. Monneray, a collaboration which also included the whole brief which I present to the Tribunal.

I shall now ask the Tribunal to take the files relative to Section 3, devoted to the ideological Germanization, and to propaganda.

When I had occasion to speak to the Tribunal about forced labor and economic pillage I said that the Germans had taken all available manpower, goods, and raw materials from the occupied countries. They drained these countries of their reserves. The Germans acted in exactly the same manner with regard to the intellectual and moral resources. They wished to seize and eliminate the spiritual reserves. This expression "spiritual reserves," which is extremely significant, was not invented by the Prosecution. I have borrowed it from the Germans themselves. I have quoted to the Tribunal another extract from a work which was submitted as a document under Number RF-5 of the French documentation. This was a book published in Berlin by the Nazi Party. The author was Dr. Friedrich Didier. This work has a preface by the Defendant Sauckel and is entitled *Working For Europe*. The quotation which I should like to make appears in the document book under 1100, which is simply the order of sequence, as the book itself has already been presented and submitted. The book includes a chapter entitled "Ideological Guidance and Social Assistance." The author is concerned with the ideological guidance of the foreign workers who were taken away by millions to the Reich by force. This preoccupation with the ideological guidance of such an important element of the population of the occupied countries is already

remarkable in itself; but it is, on the other hand, quite evident that this preoccupation is general with regard to all the inhabitants of the occupied countries, and the author in this case has simply confined himself to his subject. I have chosen this quotation to begin my section because its wording seemed to me to be particularly felicitous to enable us to get an idea of the German plans in regard to propaganda.

Page 69 of the book that has been put in evidence reads:

"The problem of ideological guidance of the foreign worker is not as simple as in the case of the German fellow worker. In employing foreigners far more importance must be paid to the removal of psychological reservations. The foreigner must get accustomed to unfamiliar surroundings. His ideological scruples must be dispersed, if he has any. The mental attitude of the nationals of former enemy states must be just as effectively refuted as the consequences of foreign ideologies."

In the occupied countries the Germans undertook to eliminate the mental reserves and to expurgate the ideology of each man in order to substitute for them the Nazi conception. Such was the object of the propaganda. This propaganda had already been introduced in Germany and it was carried on there unceasingly. We have seen from the article just quoted that there was also a preoccupation with the ideological guidance of the German worker, although the problem was considered there to be more simple. When we speak today of Nazi propaganda we are often tempted to underestimate the importance of this propaganda. There are grounds for underestimating it, but they are false grounds. On the one hand, when we consider the works and the themes of propaganda, we are often struck by their crudeness, their obviously mendacious character, their intellectual or artistic poverty. But we must not forget that the Nazi propaganda utilized all means, the most crude as well as the more subtle and often skillful methods. From another point of view the crudest affirmations are those that carry most weight with some simple minds.

Finally, we must not forget that if the Germans had won the war, these writings, these films, which we find ridiculous, would have constituted in the future our principal and soon our sole spiritual food.

Another remark that is often heard is that German propaganda achieved only very poor results. Indeed, these results are quite insignificant, especially if one takes into account the means which this propaganda had at its disposal. The enslaved peoples did not listen to the news and to the exhortations of the Germans. They threw themselves into the resistance. But here again we must consider

that the war continued, that the broadcasts from the countries which had remained free gave out magnificent counter propaganda, and that finally the Germans after a time suffered military reverses.

If events had been different perhaps this propaganda would, in the long run, have brought about an acquiescence on the part of the more important elements of the populations which would have been worse than the oppression itself. It is fortunate that only a very small minority in the different countries were corrupted by the Nazi propaganda, but however small this minority may have been, it is for us a cause for sadness and of just complaint.

The slogans of Nazi propaganda appear to us less childish and less ridiculous when we consider the few wretches who, influenced by it, enrolled in a legion or in the Waffen SS to fight against their countries and against humanity. By their death in this dishonorable combat or after their condemnation some of these men have expiated their crimes. But Nazi propaganda is responsible for the death of each one of them and for each one of these crimes.

Finally, we are not sure that we know today exactly the real effect of Nazi propaganda. We are not sure that we are able to measure all the harm which it has done to us. The nations count their visible wounds, but propaganda is a poison which dissolves in the mental organism and leaves traces that cannot be discerned. There are still men in the world who, because of the propaganda to which they have been subjected, believe, perhaps obscurely, that they have the right to despise or to eliminate another man because he is a Jew or because he is a Communist. The men who believe this still remain accomplices and, at the same time, are victims of Nazism.

One of my colleagues has shown that while the physical health of the occupied peoples was severely undermined, their moral health appears more robust; but it must still be anxiously watched for a certain time in the future.

For these reasons, the French Prosecution has considered that there was room in this accusation for the section on spiritual Germanization and propaganda. This propaganda is a criminal enterprise in itself. It is an onslaught against the spiritual condition, according to the definition of M. de Menthon, but it is also a means and an aggravating circumstance of the whole of the criminal methods of the Nazis, since it prepared their success and since it was to maintain their success. It was considered by the Germans themselves, as numerous quotations show, as one of the most reliable weapons of total war. It is more particularly a means and an aspect of the Germanization which we are studying at this moment. I should add that German propaganda has been constantly

developed for many years and over considerable areas. It assumed very diverse forms. We have therefore only to define some of its principal features and to quote merely a few characteristic documents, chiefly from the point of view of the responsibility of certain persons or of certain organizations.

Over a long period of time the Reich had developed official propaganda services in a ministerial department created as early as 1933 under the name of Ministry of Public Enlightenment and Propaganda, with Goebbels at the head and the Defendant Fritzsche performing important functions. But this ministry and its department were not the only ones responsible for questions of propaganda. We shall show that the responsibility of the Minister and of the Ministry of Foreign Affairs is equally involved. We shall likewise show that the Party took an active part in propaganda.

Finally, I mention here that in the occupied countries the military commands constituted organs of propaganda and were very active. This fact must be added to all those which show that the German military command exercised powers wholly different from what are normally considered to be military powers. By this abnormal extension of their activities, apart from the crimes committed within the framework of their direct competence, the military chiefs and the High Command have furnished justification for the allegation of joint responsibility.

The German propaganda always presents two complementary aspects, a negative aspect and a positive aspect: A negative or, in a sense, a destructive aspect, that of forbidding or of limiting certain liberties, certain intellectual possibilities which existed before; a positive aspect, that of creating documents or instruments of propaganda, of spreading this propaganda, of imposing it on the eyes, on the ears, and on the mind. An authority has already said that there are two different voices: The voice that refuses truth and the voice that tells lies. This duality of restrictive propaganda and of constructive propaganda exists in the different realms of the expression of thought.

I shall mention now, in my first paragraph, the measures taken by the Germans as regards meetings and associations. The German authorities have always taken measures to suppress the right of assembly and association in the occupied countries. We are here concerned both with the question of political rights and of thought. In France, a decree of 21 August 1940, which appeared in the *Official Gazette* of German Decrees of 16 September 1940, forbade any meeting or association without the authorization of the German military administration.

It must not be thought that the Germans utilized their powers in this matter only in regard to associations and groups which were

hostile to them, or even those whose object was political. They were anxious to avoid any spreading of an intellectual or moral influence which would not be directly subordinated to them. In this connection I present to the Tribunal, merely by way of example, Document Number RF-1101, which is a letter from the Military Commander dated 13 December 1941, addressed to the General Delegate of the French Government. This deals with the youth groups. Even with regard to associations or groups which should have a general public character, the German authorities gave their authorization only on condition that they would be able to exercise not only their control over these organizations, but a real influence by means of these organizations.

I shall read the first paragraph of this Document Number RF-1101.

> "The General Secretariat of Youth has informed us by letter of 11 November 1941 of its intention to establish so-called social youth centers whose aim shall be to give to youth a civic education and to safeguard it from the moral degeneracy which threatens it. The creation of these social youth centers, as well the establishment of youth camps, must be sanctioned by the Commander-in-Chief of the Military Forces in France. Before being able to make a final decision as to the creation of these social centers, it appears indispensable that greater details should be furnished, particularly about the persons responsible for these centers in the various communes, the points of view which will prevail when selecting the leaders of these centers, the principal categories of youth to be recruited and detailed plans for the intended instruction and education of these young people."

I shall now produce Document Number RF-1102. This document is a note, dealing with . . .

THE PRESIDENT: *[Interposing]* M. Faure, could you tell us how long you think you will be on this subject of propaganda?

M. FAURE: I expect to speak for about two hours, or two and a half hours.

THE PRESIDENT: What is the program after you have done with this subject of propaganda?

M. FAURE: Mr. President, as I indicated at the beginning of my presentation, it includes four sections. The propaganda section, about which I am speaking now, constitutes Section 3. The fourth section is devoted to the administrative organization of the criminal action. It corresponds, more exactly, to the second heading under Count Four of the Indictment relative to the persecution of the Jews in the occupied countries of the West. After this section I shall have completed my presentation. Does the Tribunal likewise

wish me to indicate what will follow in the program of the French Prosecution?

THE PRESIDENT: Yes, we would like to know.

M. FAURE: M. Mounier will deal with the analytical brief and the recapitulation of the individual accusations of the Prosecution. Then I think M. Gerthoffer is to speak rather briefly about the pillage of art treasures which has not been dealt with; it appears now that it would be suitable to deal with it within the framework of the presentation.

THE PRESIDENT: Then we will adjourn now.

M. FAURE: Mr. President, I should like to ask the Tribunal if it is convenient for it to see tomorrow, in the course of my propaganda section, a few projections on the screen of documents which relate to this chapter.

THE PRESIDENT: Yes, I think so. Certainly.

HERR BABEL: Regarding the questions which I asked the witness, there is something I did not understand. I did not want, in any case, to speak about the resistance or about its methods which were animated by patriotism. I did not want to judge, or even think anything derogatory about it. I wanted only to prove that deeds which are said to have been committed by the German troops were in many cases caused by the attitude of the civilian population and that actions against Germans which were contrary to international law have not been judged in the same way as lapses laid to the charge of members of the German Wehrmacht. I am of the opinion that the Indictment of the organizations...

THE PRESIDENT: Dr. Babel, will you forgive me for a moment. You concluded your cross-examination some time ago, and the Tribunal doesn't desire...

HERR BABEL: Yes, Mr. President, but I thought that by this statement I could clarify it for the Tribunal.

THE PRESIDENT: We don't need any clarification at all. We quite understand the point of your cross-examination and we shall hear you when the time comes, very fully in all probability, in support of the arguments which you desire to present.

HERR BABEL: I did so because I thought that you...

THE PRESIDENT: You must give the Tribunal credit for understanding your cross-examination. We really cannot continue to have interruptions of this sort. We have some twenty defendants and some twenty counsels, and if they are all going to get up in the way that you do and make protests, we shall never get to the end of this Trial.

[The Tribunal adjourned until 5 February 1946 at 1000 hours.]